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T H E  
**Clerk's Associate:**

Containing

An Account of the High Court of  
CHANCERY, of the OFFICERS,  
CLERKS, and their Business.

A L S O

The METHOD of PRACTICE, and of  
PROCEEDINGS ;

Together

With Variety of Useful FORMS and  
INSTRUCTIONS.

A N D

Fitted for the Use of Young CLERKS in  
CHANCERY, PRACTISERS, &c.

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By a GENTLEMAN of LINCOLN'S INN:

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— — — “ *Si quid novisti rectius istis,*  
“ *Candidus imperti : si non, his utere Mecum.*

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In the SAVOY.

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M.DCC.XXXVIII.





T H E  
P R E F A C E.

**A** *Ltho' this Book be but little; yet I hope whoever takes the Pains of reading it will find much in it. — My first Request is, Not to be prejudiced by the Size of it; but be pleased to suspend your Judgment until you have read it.*

*Since the Want of Knowledge in any Profession too often creates an Aversion to it; and as the Improvement of Young Gentlemen is of so great Consequence, methinks no Attempt to cultivate their Minds with useful Knowledge, to give them some Insight into Business, can want any Apology. This Treatise was, indeed, at first intended to serve a private Occasion; but its undoubted Usefulness,*

## The PREFACE.

together with my Love for the Publick, induced me to send it abroad; and the rather so, because a Book of this Nature is at this Time very much wanted, notwithstanding Writers on this Subject are very numerous, and their Works very voluminous; but how much many of them are to be now regarded, how conformable they are to the Modern Practice, is not only manifest to the learned, but also to many Young Practisers, especially those who have been misled by them. However, I am far from endeavouring to depreciate the real Value of any Performance in Order to give this the Advantage; yet I think it necessary to acquaint you, that I have omitted every Thing which I thought might create any Distaste to, or lessen the true Value and Usefulness of this Book. I have not started any idle Queries, which, according to a great Writer, are but Seminaries of Doubts and Incertainties;

## The PREFACE.

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*ties; nor crowded in a Multitude of long superfluous Precedents of Bills and Answers, merely to swell its Bulk, and enhance its Price; but I have been as plain as possible, without Prolixity. And though some Things herein may, at first View, seem useless; yet I am convinced they will assist a great many. And because this Treatise will be of the most Service to the Young Clerks in Chancery, to them I have directed great Part of my Discourse: And I have taken such a Method, that I believe many will wonder to find so much Matter comprehended in so small a Treatise.*

*References to Books are inserted, out of which some Materials are collected, many obsolete Things are omitted, some Authorities are cited, others referr'd to; and an easy familiar Method is briefly and clearly observed throughout the whole.*

Upon

## The PREFACE.

*Upon Perusal, I hope it will appear, that I have not only done something towards rendring the Practice more correct and easy, but also pointed out a Way in order to transact Business with greater Expedition.*

*If this Book should succeed, according to my hearty Wishes, in the Instruction and Improvement of the Reader, I shall think my Time well spent; if not, the Goodness of my Intention will justify the Undertaking, and secure me from all Censure.*

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THE

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THE

# Clerk's Associate.

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*Of the High Court of*  
Chancery.

**T**HIS is the highest Court of Judicature in this Kingdom next to the Parliament, its Institution is very antient, and its Jurisdiction extensive; yet it is no Court of Record. It proceeds according to Equity and good Conscience, generally

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nerally correcting or moderating the Rigour of other Courts, which are tied down to the strict Letter of the Law, regarding the Intention rather than the Words of the Law, and giving Relief where the Common Law gives none; but where there can be a Remedy at Law, there ought not to be Relief in *Chancery*. 4 *Inst.* 78, 79, 82, 84. *Curs. Canc.* 2, 3, 5, 6, 16, 17. 1 *Chan. Ca.* 31, 35, 37, 42, 53, 56, 104, 123, 124, 156, 173, 203, 228, 241, 306. *N. Chan. Ca.* 172, 184, 206, 224, 295, 301, 336. 2 *Chan. Ca.* 30. 1 *Danv.* 752. 2 *Ventr.* 346, 352, 365. 1 *Roll. Abr.* 373. 1 *Danv. Abr.* 749, 750, &c. 1 *Salk.* 154. *Danv.* 763. 3 *Chan. Rep.* 70. 1 & 2 *Vern. Tit. Appeal.*



*Of the Officers and Clerks of  
the said Court.*

Lord Chancellor, Is the chief <sup>Staundf.</sup>  
Person next to the Sovereign for <sup>4 Inst.</sup>  
the Administration of Justice in <sup>Stat. 5 El.</sup>  
Civil Affairs ; he makes Orders <sup>c. 18.</sup>  
and Decrees, and hath very great <sup>1 Sid. 338.</sup>  
Power ; he is constituted by the  
King's delivering to him the Great  
Seal, and by taking an Oath.

And tho' *Polydore Virgil*, in  
his History of *England*, makes  
*William* the Conqueror the  
Founder of our *Chancellors* ; yet  
*Mr. Dugdale* our Antiquary has  
shewn, that there were many  
*Chancellors* of *England* long be-  
fore that Time, which are men-  
tioned in his *Origines Juridici-*  
*ales*, and Catalogues of *Chancel-*  
*lors* ; and my Lord *Coke* in his  
fourth Institute saith, it is certain,  
That both the *British* and *Saxon*  
Kings had their *Chancellors*, whose  
B 2 great

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great Authority under their Kings was in all probability drawn from the reasonable Customs of neighbouring Nations, and the Civil Law.

*4 Inst. 95.* Master of the Rolls, Is a Judicial Officer of this Court, and  
*Curs. Canc. 21, 22,* is an Assistant to the Lord Chan-  
*Ec. Stat.* cellor when present, and his De-  
*3 Geo. 2.* puty when absent; and has cer-  
*c. 30.* tain Causes assigned him to hear and decree; he is, by Virtue of his Office, chief of the Masters in *Chancery*, and chief Clerk of the *Petty-Bag Office*.

## *Of the Masters in Chancery.*

*Curs. Canc. 24. Stat.* They are Assistants to the Lord  
*13 Ear. 2.* Chancellor and Master of the Rolls during Term-Time. They are Twelve in Number, the Master of the Rolls being the chief. They sit in Court, and take Notice  
of

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of such References as are there made to them, to be by them reported to the Court, relating to Matters of Practice, the State of Proceedings, Accounts, &c. They also take Affidavits, acknowledge Deeds and Recognizances, and examine Exemplifications of Records, &c.

By the Stat. 13 *Car.* 2. a publick Office is to be kept near the Rolls for the Masters in *Chancery*, in which they, some or one of them, shall constantly attend for the Administring of Oaths, Caption of Deeds and Recognizances, &c. — This Office is now kept in the Court before the *Crown* and *Rolls Tavern* in *Chancery-Lane*.

There are also Masters extraordinary in the Country, before whom Affidavits are there made, &c.

*Of the Six Clerks.*

They file Proceedings, and also issue some Patents that pass the Great Seal; most Part of which Business is done by their Under-Clerks, about Ten of which are in each Six Clerk's Division, besides Two Waiting-Clerks. They also sign Office-Copies in order to be read in Court, and likewise Certificates, and attend the Court in Term-time at *Westminster*, and there read the Pleadings, &c. And at this Day they employ Deputies to transact some of their Business.

*Of the Sworn-Clerks, and Waiting-Clerks.*

Gentlemen are at great Expence, and obliged to serve five Years to a sworn Clerk, in order duly to qualify themselves to be properly

properly admitted Clerks of the said Court, and at the Expiration of their Clerkships they are respectively examined by the Master of the Rolls; and if by him approved of, they thereupon are admitted, and sworn in before his Honour, to the good and faithful Execution of the said Office, and thereby become Attornies of the said Court, and act as such, and are allowed to have Freeholds in their respective Offices, to give their Votes for Parliament Men in *Middlesex*, and to act as Solicitors of the said Court.

All Suitors of the said Court must employ one of the sworn Clerks, or one of the Twelve Waiting-Clerks practising in the Six Clerks Office to act as Clerk in Court.

They make out all Writs, both Special and Common, and all Procefs (save *Subpœna's*) in all Causes depending on the *Equity*



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Side of the said Court, wherein they are respectively employ'd. They have a Right to, and as Occasions require, have the Custody of all Records relating to Causes there, of which Records they make Copies for their Clients. They sometimes ingross Bills, Answers, &c. Attend the Court and Masters in *Chancery* as Occasion requires, and draw and inroll the Decrees of the said Court. They give their Attendance not only in Term, but in the Vacation also, by themselves or Agents.

## *Of the Cursitors.*

*Curs. Canc.*  
25.

They are Twenty-four in Number, and were incorporated by *Q. Eliz.* — They make out all original Writs in *Chancery*, which are return'd in *C. B.* &c. And amongst these the Business of the several Counties is severally distri-



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distributed. — Their Office is in *Chancery-Lane*.

## *Of the Register.*

The Register of this Court is a Place of great Note ; he hath several Deputies under him, who sit in Court alternately, to take Minutes of all Orders and Decrees, to draw them up, to pass and enter them. The Reports or Certificates of the Masters are also filed with the Register, in a distinct Apartment in the Office, commonly called the Report-Office, and is in *Symond's Inn* in *Chancery-Lane*.

## *Of the Master of the Sub-pæna-Office.*

He issues out all Writs of *Sub-pæna*. His Office is in *Chancery-Lane* over against *Bishop's Court*.

*Of the Clerk or Register of the Affidavits.*

He keeps his Office in *Symond's Inn*, and with him you file and register such Affidavits as are used in Court, &c. without which they ought not to be admitted or given in Evidence.

*Of the Clerks of the Petty-Bag.*

They are Three in Number, and keep many Clerks, who transact great Variety of Business, which requires Knowledge and Experience, making out various Writs relating to Suits for and against Privileged Persons in this Court, which are prosecuted in this Office. And Pleadings of the *Chancery* concerning the Validity of Patents, or other Things which  
pass

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II

pass the Great Seal, are here enter'd.

*Examiners*; They are Officers in this Court, who examine Witnesses, take their Depositions, and make Office-Copies thereof, &c. — Their Office is in the *Roll-Yard in Chancery-Lane*.

*Accountant General*; He is a new Officer, and was appointed by *Stat. 12 Geo. 1.* He receives the Money lodged in Court, and conveys the same to the Bank, to be there kept for the Suitors. — His Office is in *Symond's Inn*.

*Clerks of the Rolls*; They attend at the Rolls Chapel, to search for Decrees, Deeds, &c. and to make Copies thereof.

*Serjeant at Arms*; He carries the Mace before the Lord Chancellor, and to him Persons standing  
ing

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ing in Contempt are brought up as Prisoners.

*Warden of the Fleet* ; He attends the Court in order to receive as Prisoners, such Persons as stand committed by the Court, &c.

Besides these Officers there be divers others not employ'd in Proceedings of *Equity*.

## *Of the young Clerks, Agents, &c. of the Six Clerk's Office in General.*

*Clerks* ; All of 'em should be Careful and Industrious, Gentlemen of Fortune, and good Education, for such their Business or Profession requires them to be.

*Agents* ; They all ought to be Persons of known Integrity and Ability, great Variety of important Business being by them transacted,

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acted, and several of the Records passing through their Hands.

*Common Writers* ; They are all of 'em Persons under the former, generally subordinate in Trust, Power and Knowledge.

*Porters or Messengers* ; These are too plain to need any Explanation.

## *Definitions of Bills.*

A Bill in *Chancery*, is in Nature of a Declaration at Law, setting forth the Circumstances of the Case, &c. 'Tis generally brought for Relief, where there is no Remedy by the Common Law.

Vide *Curs. Canc.* 36 to 64. 1  
& 2 *Vern. Tit. Bill.* 3 *Chan.*  
*Rep.* 84, 85, 215. 1 *Chan. Rep.*  
95. 1 *Chan. Ca.* 35. *Pract.*  
*Attorn.* 52, &c. *N. Chan. Ca.*



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46, 124, 179 — 444. 1 *Chan. Rep.* 6.

*Of a Bill of Revivor.*

When any of the Parties to a Bill die, or other Matter happens pending the Suit, whereby it is abated, in this Case, a Bill of Revivor may be brought against the Heir, Executor, &c. of the Party deceased, praying that the former Proceedings may stand revived, and be in the same Condition as at the Time of Abatement. 3 *Chan. Rep.* 39, 40, 65, 66. 1 *Chan. Rep.* 252. *Curs. Can.* 210, 220, 301, 402, &c.

*Of a Certiorari Bill.*

A *Certiorari* Bill is to remove a Cause from an inferior Court of *Equity*, as the Lord Mayor's Court, &c. 1 *Chanc. Ca.* 31, &c. *Skin. Rep.* 244, 246. *Curs. Canc.* 300, 350, 452. *N. Chan. Rep.*



Rep. 224. 2 Chan. Rep. 110. 3.  
Chan. Rep. 66.

*Of Interpleader.*

Is where two or more Persons claim the same Thing, by separate Interests, and (by a Bill of Interpleader) pray the Judgment of the Court to which it belongs.

*Of a Bill of Interpleader.*

A Bill of Interpleader is generally a Bill brought by a third Person, who not knowing to whom he ought of Right to pay a Debt or perform a Duty, fears he may be prosecuted by the Claimants, and therefore prays, they may *interplead*, so that the Court may determine to whom the Thing belongs, and the Plaintiff be made safe on the Payment. To a Bill of this Nature it is proper that the Plaintiff annex an Affidavit that he does not collude.

*Amended*

*Amended Bill.*

Where any Alteration is made in a Bill before the Cause is at Issue, this is an amended Bill, and obtained by Order of Court; and if you require an Answer to the Amendments, 'tis on Payment of Twenty Shillings Costs to the Defendant's Clerk in Court.

*Cross Bill.*

Is, where the Defendant to the original Bill has Occasion to exhibit his Bill, against the Plaintiff in that Bill, which last Bill is called a Cross Bill.

*Supplemental Bill.*

Where new Matter happens pending the Suit, and before, or after Replication, which Matter is necessary to be set forth to the Court, it cannot be done by way  
of

of Amendment, but you may of Course file a Supplemental Bill; which must be a distinct Bill, reciting briefly the former Proceedings, and then the new Matter.

*Of a Bill of Review.*

A Bill of Review is after a Cause is heard, and the Decree sign'd, complaining of some Error appearing therein, or when some new Matter is discover'd in Time; for exhibiting of which Bill, you must obtain an Order, which is generally on depositing Fifty Pounds with the Register.

3 *Chan. Rep.* 16, 19, 88, 95.  
1 *Chan. Rep.* 195, 198. 2 *Chan. Rep.* 48, 66, 195. *Ord. in Canc.* 69. *Curs. Canc.* 221, 354, 358, 381 to 402. *N. Chan. Rep.* 36, 162, 209.

*Of*

*Of the Practice and Proceedings in Chancery.**Bill, how  
filed.*

*Bill*; The Method is first to get the Bill drawn on Paper, and perused and signed by Counsel, then it must be ingross'd on Parchment, then enter'd by the Clerk in Court or Waiting-Clerk in his Cause-Book, then mark'd towards the 'Top thereof with the Day of the Month and Year when filed, and subscribed near the Bottom, on the left Side, with the Surname of the Clerk in Court, who files it, then filed (or turn'd over) in the Six Clerk's Study, ( I mean the Office of the Six Clerk, in whose Division the Clerk in Court that files it acts , ) after which it must be enter'd in the general Bill-Book, as follows, *viz.*

*A. B.*

*A. B. C. against D.*

By (*A.*) I mean the Six Clerk,  
*B.* the Clerk in Court, *C.* the  
Plaintiff, and *D.* the Defendant.  
*Vide* General Bill-Book, at the  
West End of the Six Clerk's Of-  
fice in *Chancery-Lane*.

*Subpæna*; These Steps being  
taken, make out your *Subpæna*  
Note, as follows;

*Subpæna* *J. D. Gent.* to ap-  
pear in *Chancery*, returnable —  
at the Suit of *J. C. Esq;*  
*Teste* —

Enter it likewise as above in  
your *Subpæna*-Book, after which  
give your Note to the Bag-bearer  
of the Six Clerks Office, who will  
carry it to the *Subpæna*-Office, or  
you may leave it there your self,  
if you think fit. Process of *Sub-*  
*pæna* being thus issued to compel <sup>*Appear-*</sup>  
<sup>*ance.*</sup>  
the



*Answer.*

1 Vern.

172.

2 Vern.

369.

*Replication.**Examination of Witnesses.**Publication.**Hearing. Decree.**Dismissal with Costs.*

the Defendant to appear ; on appearing, he puts in his Answer to the Bill, if there be no Cause for a Plea, to the Jurisdiction of the Court, in Disability of the Person, or in Bar, &c. Then the Plaintiff replies, unless he files Exceptions to the Answer as insufficient, referring it to a Master to report whether it be sufficient or not; to which Report Exceptions may be also taken. The Answer, Replication, &c. being settled, and the Parties come to issue, Witnesses are to be examined upon Interrogatories, either in Court or by Commission, in the Country, wherein the Parties usually join ; and when both sides have examin'd Witnesses, Publication is to pass, and the Cause to be set down for Hearing, after which follows the Decree. — If the Plaintiff dismisseth his own Bill, or the Defendant dismisseth it for want of Prosecution, or if upon the Hearing there appears to be



be no *Equity* in the Plaintiffs Bill against the Defendant, the Bill is generally dismiss'd with Costs, to be taxed by one of the Masters of this Court.

Of Processes.

If the Defendant doth not appear, on being served with Process of *Subpæna*, in Order to answer, on Affidavit of Service thereof, an *Attachment* directed to the Sheriff may be issued against him; <sup>1 Chan. Ca. 32, 185.</sup> and if a *Non est inventus* is return'd by the Sheriff, an *Attachment* with *Proclamations* also, <sup>1 Vern. 172. 2 Vern. 91.</sup> directed to the Sheriff, goes out against him; (and this being also *Proclamation* return'd *Non est inventus* by the Sheriff) and if he stands further in Contempt, then a Commission of *Rebellion*, directed to four <sup>Commission of Rebellion.</sup> or more persons Commissioners, may be issued, for apprehending him and taking him into Custody, who may deliver him to the War-

Warden of the Fleet, if taken in *London*; or if taken in the Country, may deliver the Defendant to the County Goal; in the Execution whereof the Persons to whom directed may, with the Assistance of a Constable, justify breaking open Doors in order to apprehend the Defendant. If the Defendant stands further in Contempt, then on a *Non est inventus* return'd by the Commissioners, you move the Court upon the said Commission of *Rebellion*, and obtain an Order for a *Serjeant at Arms* to be sent out to take him; and if he shall not be able to find him (on his certifying the same) you move the Court on his Certificate for an Order for a *Sequestration*, by Virtue of which Order, you make out a Writ of *Sequestration* against the Defendant, directed to Commissioners, giving them Power and Authority to enter upon all his Messuages, Lands, Tene-

*Serjeant  
at Arms.*

*Sequestration.*

1 Chan.

Ca. 92.

2 Chan.

Ca. 44, 46.

1 Vern.

58, 118,

160, 166,

228, 247,

421.

Tenements and real Estate whatsoever, and to take, collect, receive and sequester, not only all the Rents and Profits thereof, but also all his Goods, Chattels and Personal Estate whatsoever, and to detain and keep the same under Sequestration, until he shall fully answer the Plaintiff's Bill, clear his Contempts, and the Court make other Order to the contrary.

If a Decree be not obeyed, being *Note.* serv'd upon the Party under Seal of the Court, all the aforesaid Processes of Contempt may issue out against him, for his Imprisonment until he yields Obedience thereto.

If a Bill be exhibited against *Bill a-* a Peer, you must obtain the Lord *guinst a* Chancellor's Letter Missive for *Peer.* his Appearance, which must be deliver'd him, together with an Office-Copy of the Bill signed by the Six Clerk or his Deputy; and in Case he don't appear, you may

may then, upon making an Affidavit of the Service of the said Letter and Copy of the Bill on the Defendant, move the Court for a Sequestration against the Defendant; and if after an Appearance, he then fails to put in his Answer by the Time limited by the Rules of the Court, you may obtain an Order for him to answer in eight Days after Service of the said Order, or else a Sequestration to go out against him; for there can be no Process of Contempt, against his Person.

If a Bill be filed against a Member of Parliament, you must give him an Office-Copy thereof sign'd as aforesaid at the same Time you serve the *Subpæna*.

*Stat. 4*

*and 5.*

*Ann. c. 16.*

*West Symb.*

*par. 2.*

*Crompt.*

*Juris. 33.*

*Curf Canc.*

*64 to 79*

## *Of Subpæna's.*

A *Subpæna* is a Writ by which Persons are called into Chancery, where the Common Law hath provided no ordinary Remedy.

There

There are several Sorts of these Writs ; as a *Subpœna* to appear and answer, *Subpœna* to rejoin, *Subpœna* to revive, *Subpœna* to revive and answer, *Subpœna* to make better Answer, *Subpœna* to testify, *Subpœna* to hear Judgment, and *Subpœna* for Costs, &c. which Writs are made out at the *Subpœna* Office, on Instructions or Notes being left there for that Purpose by the Clerks in Court or Solicitors.

The usual Method now is to *Subpœna* a Witness (especially if <sup>to testify.</sup> he be unwilling to come without a *Subpœna*) to appear and testify before *A. B.* and others Commissioners on the Part of *C. D.* Plaintiff, against *E. F.* Defendant, and give the Witness One Shilling at the same Time you serve him with the *Subpœna*, and also serve him with the Commissioners Summons ; and if the Witness refuses to appear to be examin'd, upon an Affidavit of the Service of

C

Sub-



*Subpæna* and Summons, and of giving him One Shilling; the Court will grant an Order to commit him, and make him attend at the Examiner's Office to be examined at his own Charge: And so also if you serve a Witness with a *Subpæna* to attend at the Examiner's Office, and give him One Shilling, if he refuses to appear and be examin'd, on an Affidavit of the Service, and taking the Examiner's Certificate that the Witness has not attended to be examined, the Court will grant an Order to commit him: So if a Witness attend, and is Sworn to the Interrogatories, and afterwards refuses to be examined, then upon taking the Examiner's Certificate that he is sworn to the Interrogatories, and has not attended to be examined, the Court, on that Certificate, will grant an Order, that such Witness do, in four Days after Service of that Order, attend and be examined,  
or

or in Default thereof, that he stands committed to the Fleet-Prison.

Several kinds of Notes for several Sorts of Subpœna's. *Vide Ante.* Note for Subpœna to appear and answer.

Subpœna A. B. to rejoin with C. D. returnable immediately. Subpœna to rejoin.  
*Teste* —

Subpœna J. G. to revive at the Suit of A. B. returnable — Subpœna to revive.  
*Teste* —

Subpœna J. G. to revive and answer at the Suit of A. B. returnable — Subpœna to revive and answer.  
*Teste* —

Subpœna C. H. and M. his Wife to make better Answer at the Suit of W. H. returnable immediately, — Subpœna to make better Answer.  
*Teste* —

*Subpœna to testify.* *Subpœna M. H.* to testify for *M. S.* Plaintiff against *J. D.* Defendant, returnable immediately, —

*Teste* —

*Subpœna to hear Judgment.* *Subpœna R. C.* Defendant returnable — — — to hear Judgment the — — at the Suit of *R. A.*

*Teste* —

*Subpœna for Costs.* *Subpœna M. O. Gent.* to pay — — to *B. H.* or Bearer,

*Teste* —

You must be careful there be no Mistake in the Body of the Writ, for if there be, and the Defendant finds it, he may take Advantage to the Plaintiff's Prejudice.

*Returns.* A *Subpœna ad respondend.* is returnable either *immediate* (when the Defendant lives in 'Town or within 'Ten Miles) on an Affidavit made and filed thereof, tho' in Term 'tis needless to have

have it returnable *immediate*, for it may be returnable any Day in Term, unless an Order be obtained on Petition or Motion for having it returnable *immediate*: In Term it is usually returnable on any Day; and where there are many Plaintiffs, all of them need not be named either in the Note or Writ, but only the first with an *& al.* But all the Defendants are to be named. You must only put three Defendants in one Writ, in which Case, a Man and his Wife are admitted as one. *Persons in the Writ.*

If you want a *Subpœna* returnable *immediate*, you must either apply to the Court by Petition or Motion, and have an Affidavit that the Defendant lives in *London*, or within ten Miles thereof, and the Place where. *Subpœna returnable immediate.*

When a *Subpœna* is returnable on the last Day of the Term, and the *Subpœna* served that Day, before the Rising of the Court,

Court, if the Defendant lives twenty Miles or more from *London*, he has eight Days after to appear in and no more ; and if served in *London* or within ten Miles thereof, he has but four Days to appear in ; and a Defendant living twenty Miles of may have a Commission to take his Answer in the Country, returnable the first Return of next Term ; but living in *London* he has eight Days from his Appearance to answer.

Upon a *Subpœna* returnable *immediate* the Party is bound to appear, and if he does not answer eight Days after Appearance, then an Attachment may be immediately after, made out against him.

No *Subpœna* or other Process of Appearance shall issue till after a Bill filed, except on Bills for Injunctions to stay Waste, or Suits at Law commenced, or threatned to be commenced.

There



There must be fifteen Days between the Teste and Return of <sup>Teste and Return.</sup> every Process of Contempt after the *Subpæna*.

A *Subpæna* may be made returnable the same Day on which 'tis sealed.

When the Business is done at a General Seal, you pay to the Bag-bearer, or leave with the Clerk of the *Subpæna*'s, four Shillings for every ordinary *Subpæna*, and six Pence for every loose Label: But if it be at a private Seal, (which in Cases of great Importance is sometimes necessary,) you pay two Guineas for opening the Seal, over and besides the Fees of the Writ; but you pay no more than three Shillings and six Pence extraordinary for sealing any Common Writ, where a private Seal is obtain'd on any extraordinary Occasion for sealing a Commission of Bankruptcy, or the like.

*Of the Service of a Subpæna.*

It is to be served before the Return thereof, either by the Delivery of the Writ itself under Seal to the Defendant, or by shewing him the same under Seal, and delivering to him the Label. When there are more Persons than one in the *Subpæna*, 'tis usual to have a Label, so that the Body of the Writ may be reserved to be left with the last, or it may be left at the Defendant's dwelling House, with one of his Family, or at his Place of Residence. The Body of the Writ must be shewn under Seal to such Defendants as are served with Labels.

It has been held good Service to leave the Writ hanging upon the Door of the House, or to put it into the House under the Door, or within the Windows ; but this  
is.

is not good Service, unless it can be proved such *Subpæna* afterwards came to the Defendant's Hands, and that he was in the House at the Time, or had Notice of it, &c. and if the Defendant cannot be found, or be beyond the Seas, on Affidavit thereof, if the Bill be to be relieved against an Action at Common Law, then the Court will, on Motion or Petition, grant an Order, that Service on his Attorney at Law be deemed good Service on the Defendant ; so where a *Subpæna* is had against the Husband and Wife, Service on him alone, and giving Notice 'tis against him and his Wife, is good as to both.

If a *Subpæna* be served on the same Day it is returnable, if it be before Noon, or at any Time before the Rising of the Court, the Service is good. And if a *Subpæna* be served the same Day on which 'tis sealed, if it be before

the Rising of the Court, it is good. But in this Case 'tis not unnecessary to make proper Inquiry whether the Court was sitting at the Time of serving it.

2 Vern.  
369.

Leaving a *Subpæna* to appear and answer at the Lodgings of a Defendant, who was not to be found, not good Service, though an Order was obtained for that Purpose, it appearing afterwards that the Defendant had left his Lodgings above a Year before the *Subpæna* served.

*Bills not  
entered.*

When Bills are not enter'd, nor filed, and *Subpæna's* issued and served ; Notes or Notices are by the Defendant's Clerk in Court usually put up against the Middle Pillar in the Six Clerks Office, as follows.

*Enter*

*Enter Bill.*

*A. against B.*

*C.*

*D.*

By *C.* is meant the Six Clerk, *Costs preferred.*  
and *D.* the Sworn Clerk. ———

But if Costs are preferred, write  
thus,

*Enter Bill Costs preferred.*

*A. against B.*

*C.*

*D.*

The Costs Book is kept below  
in the Hall belonging to the said  
Office.

When a *Subpæna* is served, and  
no Bill filed, the next Day after  
the *Subpæna* is returnable, you  
write a Note, ——— *Enter*  
*Costs A. against B.* ——— and  
leave it with the Six Clerks Por-  
ter, or in the Hall, and the Six  
Clerks



Clerk will enter it in the Book, and when that is enter'd in the Costs-Book, and the Line struck, you make out a Bill of Costs, and carry the same before any one of the Masters in *Chancery*, who will tax it and set his Name to the Bill of Costs. If it be a Town Cause, he usually allows one Pound, three Shillings and four Pence. If a Country Cause, one Pound, thirteen Shillings and four Pence; and that Bill of Costs you carry to the Register, who enters it, for which you pay one Shilling and four Pence, and then you take out a *Subpœna* for the Costs. But some have ventur'd to enter the Costs with the Register, without taxing, and some have taken out a *Subpœna* for Costs, without taxing the Costs, or entring; but that Method, if contested, may admit of an Irregularity.

*Subpœna  
for Costs.*

This *Subpœna* must be served on the Plaintiff personally; and upon  
such

such Service, if the Plaintiff refuses to pay the said Costs accordingly, in such Case the Defendant may (upon Affidavit that the *Subpæna* for Costs was served, and the Money demanded) have an *Attachment* directed to the Sheriff of the County where the Plaintiff lives, to attach him for the Costs. *Attachment for Costs.*

And if the Sheriff upon the *Attachment* make Return that the Plaintiff cannot be found, then a *Proclamation* may be issued forth against him; and that *Proclamation* being likewise returned as aforesaid, then a Commission of *Rebellion* may be sued forth against him, &c. *Proclamation. Commission of Rebellion.*

The Affidavit that must be made of the Service of the *Subpæna*, must be made according as the Manner of the Service was; for if the Affidavit do not prove a good Service, no *Attachment* can regularly be had upon it.

Note;

*Note*; To the aforefaid Pillar are alfo affixed fome publick Orders, Papers of Causes before the Lord Chancellor, and Mafter of the Rolls, Notices when the Six Clerks fet down Causes, &c. fo that 'tis often neceffary to have Recourfe to fuch Place of Intelligence.

### *Of Exceptions to Answers.*

If the Plaintiff takes Exceptions to the Defendant's Answer, the Defendant has eight Days Time after the Exceptions delivered to confider to fubmit to Answer, and if he fubmits to answer the Exceptions, he has eight Days after that to put in a further Answer, if in Town, or to take out a Commiffion to answer in the Country, by the firft Return of the following Term, and he pays twenty Shillings Cofts on fubmitting to answer; but if he don't fubmit to answer in eight Days, as aforefaid, the

*Submif-  
fion to an-  
fwer.*

the Plaintiff may by Motion or Petition obtain an Order to refer it to a Master, and take out two or more Warrants from the Master, and serve on the Defendant's Clerk ; and if the Master reports the Answer insufficient, you must take out two *Subpœna's*, one *Subpœna* returnable immediately, to make a better Answer, which you may serve on the Defendant's Clerk in Court, and the other a *Subpœna* for forty Shillings Costs, if the Answer was sworn in *London*, and fifty Shillings, if the Answer was sworn by Commission ; but if the Cause be an Injunction Cause, they sometimes do not take out a *Subpœna* for the Costs, but let it alone, till the Defendant gets an Order to dissolve the Injunction unless Cause, and then insist that they shall not move to dissolve the Injunction till the Costs are paid.

*Of*

*Of a Subpœna to hear Judgment.*

When the Cause is ready for hearing, this Process issues, on a Note in Writing under the Hand of the Register with whom the Cause is set down; which Note, together with the *Subpœna* Note, as before, must be left at the *Subpœna*-Office. On the Back of this Writ must be set down the Day of Hearing. And if the Cause be set down at the Request of the Defendant, you must specify it in the *Subpœna*-Note.

*Its Service.*

This *Subpœna* is to be personally serv'd, or left at the Party's House with one of his Family. But if the Defendant absconds, or cannot be found to be serv'd personally, and he hath no certain Place of Residence, or is in Parts remote or beyond the Seas, on Affidavit thereof, the Court will, on Petition or Motion, order that

Service



Service on the Defendant's Clerk in Court shall be deemed good. If the Party to be served lives above twenty Miles from *London*, it must be serv'd fourteen Days exclusive before the Time to hear Judgment, (except it be in the Vacation between *Easter* and *Trinity* Term, and then ten Days;) but if within twenty Miles of *London*, if it be serv'd ten Days before the Time to hear Judgment, it will be sufficient; and in the short Vacation eight Days before the Return in *London*, and ten Days above twenty Miles from *London*.

*Of an Attachment.*

An Attachment, in the most common Acceptation of the Word, is an Apprehension of a Man by his Body, to bring him to answer, &c.

It may generally be had of Course upon Affidavit that the  
De-

*The Clerk's Associate.*

Defendant was serv'd with a *Sub-pœna*, and appear'd not; or after an Appearance, for want of an Answer, without an Affidavit; but upon an Affidavit for Non-payment of Costs; or upon Non-performance of an Order or Decree.

Attachments must be enter'd in the Register's Book, (and formerly they were also enter'd in the House Book; but this last is now disused,) expressing the Cause of issuing the Attachment: But the Party that makes out the Attachment usually gives Notice to the adverse Clerk in Court, before he makes out the Attachment.

*Middlesex.* Attachment against *C. D. Gent.*  
 Defendant, for want of his Appearance at the Suit of *A. B. Gent.*  
 Plaintiff. Returnable \_\_\_\_\_  
*Teste* \_\_\_\_\_

To this subscribe the sworn Clerk's Name who enters it, and  
 the

the Day 'tis enter'd; then leave it with the entring Register, to whom you must pay fourteen Pence there-with.

*Of Appearances.*

The usual Method for a Defendant to enter his Appearance is (either by himself, or his Attorney) to employ or retain one of the Clerks of the Six Clerks Office to appear for him. You must first have Recourse to the general Bill-Book, which lies at the West-end of the said Office, in order to see who files the Bill; and in case the Bill is filed, the Defendant's Clerk then goes to the Plaintiff's Clerk in Court to appear, who accordingly enters your Appearance; after which you go into the Six Clerk's Study who filed the Bill, and there take it from the File, at the same Time leaving a Note with the Six Clerk, and entering it in his Book there in the usual

usual Manner. But if another Clerk in Court should happen to appear for any other Defendant, before you appear, then you only apply to the Plaintiff's Clerk in Court, who thereupon takes down your Appearance; upon which you go to the said other Clerk in Court who has appear'd for another Defendant at the same Suit before you, in order to receive and copy the Bill, &c.

*Time to  
appear.*

If the Defendant lives twenty Miles from *London*, he has four Days Time to appear after the Return of the *Subpæna*, unless the *Subpæna* was serv'd four Days before the Return, and then you ought to appear at the Return of the *Subpæna*; but if beyond that Distance, then he has eight Days after the Return; but if serv'd eight Days before the Return, you ought to appear on the Return-Day; but if the Defendant, living within that Distance of *London*, be serv'd six or seven Days, or more, before the

the Return, then he shall have but two Days after to appear; if he be serv'd but five Days before, he shall have three Days after it; and if but four Days before, he shall have four Days after; and so if he be serv'd but two, three, or one Day before the Return: If he lives beyond that Distance, then if he be serv'd either the Morning of the Return, or one Day before, in such Case he hath eight Days to appear; but where he is serv'd eight Days or more before the Return, he has only one Day at most after it, to appear in.

This, I think, is the strict Practice of the Court; but if a Defendant lives above twenty Miles from *London*, he is intitled to answer by Commission, and then he has usually 'Time till the Beginning of the ensuing 'Term, or longer, on Cause shewn by Petition or Motion,

The



*Method of  
proceeding  
to answer.*

The Defendant having appear'd, and taken an Office Copy of the Bill, is to apply to Counsel therewith, who will advise him either to answer, plead, or demur thereto; for in many Cases the Defendant needs not answer, but plead some Matter in Law why he ought not, or demur to the Bill; which Plea or Demurrer being allowed, the Bill will be dismissed, (but not on arguing the Plea or Demurrer;) but if over-ruled, the Defendant is ordered to pay five Pound Costs, and answer the Bill.

### *Of craving a Dedimus.*

Before a Commission to take an Answer is issued, the Defendant's Clerk in Court usually calls upon the Plaintiff's Clerk in Court for Commissioners Names, to see the Defendant's Answer taken, or leaves a Note in Writing with him for that Purpose, which is commonly called *craving a Dedimus*,  
I and

and upon receiving Names, he generally makes out the Commission.

If the Plaintiff's Clerk in Court refuses to give such Names, the Defendant may, on Petition or Motion, obtain an Order to compel him so to do, or in Default thereof, be at Liberty to have a Commission directed to his own Commissioners.

The Answer being drawn on *Answers* Paper, and perused and signed by *how taken.* Counsel, it must be fairly ingross'd on Parchment; and if taken here in Town, it must be sworn before a Master in Chancery; or if the Defendant lives above twenty Miles from *London*, it may be taken by Commissioners in the Country, a Commission being first duly issued for that Purpose; six Days Notice of executing which Commission must be given, in Writing, to the Plaintiff, his Solicitor or Commissioner, appointed by the Plaintiff's Clerk in Court:  
And

And the Commissioners and Parties being met together, one of the Commissioners may read over the Answer to them; but usually 'tis not read over to the Defendants at the Time when the Commissioners meet together, but before by the Defendant's Solicitor; but one of the Commissioners says to the Defendants;--You have heard your Answer read, and do exhibit it as your Answer to the Bill of Complaint of, &c. To which they reply in the Affirmative: Then the Commissioners administer the Oath to the Parties, *viz.*

*Oath on  
taking an  
Answer.*

You shall swear, that what is contained in this your Answer, as far as concerns your own Act and Deed, is true; and that what relates to the Act and Deed of any other Person, you believe to be true; and that what is therein deny'd is not true, in such manner as therein is set forth.

*So help you God.*

*N.B.*

N. B. The Answer of a Peer is taken upon his Honour. *Bract lib. 5. c. 9. 9 Rep. 49.*

Where a Peer is to answer Interrogatories, or make an Affidavit, or to be examin'd as a Witness, he must be upon his Oath. *3 Inst. 29. W. Jones 152. 2 Salk. 512.*

The Answer of a Corporation is taken under their Common Seal.

The Answer of a Quaker is taken upon his solemn Affirmation and Declaration.

If you want a Commission to plead, answer, or demur, you may obtain the same either by Petition or Motion; but if on such a Commission a Demurrer only be return'd, the Court on Motion will discharge such Demurrer; but if it be both a Plea and Demurrer, 'tis regular; or if it be such a Plea only as shall afterwards be over-ruled, the Defendant shall pay five Pounds Costs for over-ruling such Plea. *Special Commission to plead, answer or demur.*

A common *Dedimus*. A *Dedimus* to plead, answer, or demur. *Several Sorts of Dedimus's or Commissions.*  
A *Dedimus* to assign a Guardian,  
D and

and to take the Infant's Answer, and the Answer of other Defendants. A *Dedimus* to take the Answer of a Corporation only. A *Dedimus* to take a Quaker's Answer. A *Dedimus* to take an Infant's Answer by Guardian already assign'd, and the Answer of other Defendants. A *Dedimus* to take the Plea, Answer or Demurrer of Infants by Guardian already assign'd, and the Answer of other Defendants. A *Dedimus* to take the Plea, Answer, or Demurrer of Infants by Guardian already assign'd, &c.

A Commission of Rebellion. Commission to examine Witnesses. Commission to examine a Defendant on Interrogatories. Commission to assign and set out Dower. Commission to examine a Defendant touching a Contempt. Commission to examine Witnesses, and divide Lands, &c.

When



When a Commission is return'd,  
it is to be indorsed in manner fol-  
lowing;

27 June 1737. Upon the Oath of <sup>Indorse-  
ment on</sup>  
A.B. at the Publick Office, before <sup>Commis-  
sions.</sup>

But if the Bearer or Messenger  
be sworn at any other Place, the  
Indorsement must be properly va-  
ried. Then you must apply to  
one of the Masters at the Pub-  
lick Office, or elsewhere, before  
whom, the Person who has the  
Carriage thereof swears, that he <sup>Oath on</sup>  
received it from the Hands of one <sup>Return of</sup>  
or more of the Commissioners <sup>a Commis-  
sion.</sup>  
therein named, and that it has  
not been open'd nor alter'd since  
he so received it.

But if one of the Commissioners  
has the Carriage thereof, and de-  
livers it sealed, as aforefaid, into  
the Hands of the Clerk in Court,  
'tis often accepted without Oath,  
and indorsed thus;

27 *June* 1737. Received by the Hands of *A. B.* one of the Commissioners.

*Answers  
now filed.*

These Things being done, you may open the Answer, enter it in your Cause Book, annex it to the Bill, marking it near the Top with the Day of the Month and Year when filed, and subscribing near the Bottom, on the left Side, the Surname of the Sworn Clerk who files it, and then file it with the Six Clerk, at the same Time acquainting the Plaintiff's Clerk in Court, that you have so done; after which he goes into his Six Clerk's Study (it being by the Defendant's Six Clerk transmitted thither) and takes it from thence, first making a proper Entry thereof in the Six Clerk's Book. But if the Answer of another Defendant to the same Bill be filed before, you then do as before-mentioned, save that in this Case you need not annex the Answer to the Bil, but  
only

only write at the Bottom of the Answer; Bill with another Answer to *A.* filed such a Term with *B.* naming the Defendant's Six Clerk. — By *A.* I mean the Plaintiff's Six Clerk.

An Answer is not strictly reputed as such till filed; and an Answer ought not, but is usually filed, although the Costs of Contempt for not answering are not paid.

On delaying to answer, the De- <sup>*Answers*</sup> <sup>*delay'd.*</sup> fendant ought upon Oath to satisfy the Causes of such Delay; as that the Defendant cannot answer, without having first seen Writings which are in the Country, &c.

### *Of Exceptions.*

An Exception in Chancery is, <sup>*Chanc.*</sup> usually what is alledged against <sup>*Ca. 60.*</sup> the Sufficiency of an Answer, or a Master's Report. — They must be signed by Counsel, copied on common Paper, and deli-

vered to the adverse Clerk in Court, being first mark'd near the Top with the Day of the Month and Year when delivered, which is commonly called Filing Exceptions. But if Exceptions to a Master's Report, they must not only be signed by Counsel, but also engross'd on double Sixpenny Stamp'd Paper, and filed with the Head Register.

Of insufficient Answers, *v. 1*  
*Chan. Ca. 60, 238, 279. 2 Ca. 29.*

Of amending Answers, *v. 1*  
*Chan. Ca. 29. N. Chan. Ca. 114, 134, 135, 268.*

No Exception can be taken to an Answer after a Replication put in, for it is then admitted to be good, unless you get an Order to withdraw the Replication, and then you may deliver Exceptions to the Defendant's Answer.

They ought to shew some particular Point or Points wherein the Answer or Report is defective.  
If

If an Answer be filed in Term, <sup>*In what Time Ex-*</sup> the Plaintiff must deliver his Ex- <sup>*ceptions to*</sup> ceptions to the Defendant's Clerk <sup>*be deli-*</sup> in Court the same Term, or with- <sup>*vered.*</sup> in eight Days after ; but if the Answer be filed in the Vacation, the Plaintiff hath Time till eight Days after the Beginning of the then next Term to put in Exceptions ; and they cannot be put in afterwards in either Case (without an Order or Consent on the other Side,) the Clerk in Court refusing to receive them ; which if he does, an Order may be obtained on Petition or Motion, and serv'd, and the Exceptions filed at the same Time : The Defendant has from thence eight Days to consider whether he will submit to answer ; and if he does submit, he must pay twenty Shillings Costs ; but if not, an Order may be had to refer them to a Master, &c. If the Defendant do, within eight Days after delivering of Exceptions, submit to answer, and do

D 4.

amend



*Exceptions  
referred.*

amend his Answer in the same Term, and pay twenty Shillings Costs, the Plaintiff shall go on and reply; but if the Defendant fail so to do, the Exceptions, on Motion, are to be referr'd to a Master, who is to certify the Sufficiency of the Answer. The Plaintiff cannot refer Exceptions to a first Answer, 'till eight Days after they are filed or delivered, and not submitting to put in a further Answer: But on a second insufficient Answer, they may be referr'd immediately. The Plaintiff must serve the Defendant with a Warrant to attend on those References, which is to be serv'd on the Defendant, or his Clerk in Court, two Days before Arguing the Exceptions; if he does not attend, which is generally the Case, the Plaintiff may take out another Warrant; and if he fails to attend, he may take out a third and peremptory Warrant; and if he fails then to attend, the  
Plain-

Plaintiff may proceed *ex parte*; but the Defendant for the most part appears. The Insufficiency appearing on the Exceptions is to be insisted on, and no new Exceptions to be put in.

If the first Answer be reported <sup>Costs on</sup> insufficient, the Defendant is to <sup>insufficient</sup> pay forty Shillings Costs; and if <sup>Answers.</sup> taken in the Country, two Pounds ten Shillings. — Three Pounds for a second Answer; four Pounds for a third; five Pounds for a fourth, &c. And the fourth Answer being reported insufficient, the Plaintiff may move on the Master's Report filed, that the Defendant may stand committed; and the Defendant shall not be discharged till he has put in a full Answer, and paid the Costs of the Contempt. But if the Answer be reported good, the Plaintiff shall pay the Defendant forty <sup>sufficient</sup> Shillings Costs. <sup>Answers.</sup>

If the first Answer be reported <sup>Chan.</sup> insufficient, the Defendant, if he <sup>Ca. 60.</sup>

answers again without excepting to the Report, must answer all the Points reported insufficient, although the same exceed the Charge in the Bill; and the Plaintiff in such Case may also, by Motion or Petition, obtain an Order to amend his Bill without Costs, amending the Defendant's Copy of the Bill.

*Ibid.* 238. And if a second Answer be insufficient, Process of Attachment, &c. shall go on as it was before.

*Master's Report, and Exceptions there-  
to.* The Master's Report and Certificate on Exceptions made is conclusive, unless either Party take Exceptions to it; which is often done, on depositing five Pounds with the Register, if it be a general Report, which must be paid to the other Party, if the Exceptions to the Report are over-ruled: And on Reports touching Sufficiency of Answers, forty Shillings, and twenty Shillings for every Exception which on arguing shall be over-ruled as frivolous and

and impertinent. But where the Exceptions are found good, and allowed, the Party, that deposited the five Pounds with the Register, is usually ordered to take back his Deposit, though it is in the Discretion of the Court to order otherwise.

When an Answer is apprehended to be sufficient, and Exceptions thereto groundless and invalid, then Exceptions may be taken to the Master's Report, on making a Deposit of five Pounds; after which an Order may be obtained for setting them down to be argued; which Order may be procured by Petition to the Lord Chancellor, either by Plaintiff or Defendant.

If Exceptions are found against <sup>Better Answer on</sup> a Defendant upon an Answer, he <sup>Exceptions made good.</sup> must pay the Costs, and put in a better Answer; and the Plaintiff may have one *Subpœna* for Costs, and another to make a better Answer.

## Of Pleas.

1 Vern.

139, 179,  
185, 246,  
275, 332,  
473.

A Plea in *Chancery* is a Sort of special Answer by a Defendant to a Bill, or to some Part thereof, shewing and relying upon one or more Things, as a Cause why the Suit should either be dismiss'd, delay'd or barred.

Pleas to the Jurisdiction, or in Disability of the Person, need not be on Oath, so as they be signed by Counsel; nor need Pleas of Matter of Record: But Pleas in Bar of *Matters in Pais*, are to be upon Oath, except the Matter of the Bar be single, and so full a Bar, that the Bill requires no further Answer; the whole is generally set forth by way of Answer, and then so much of it as goes in Bar being relied upon, by way of Answer, this is intitled, The Plea and Answer of the Defendant.

Of Pleas to the Jurisdiction,  
*vide Curs. Canc.* 181 to 196.  
1 Chan.



1 Chan. Ca. 41, 237. N. Chan. Ca. 162, 292, 451. 1 Chan. Rep. 70.

Of Pleas to the Person, *vide* *Pract. Attorn.*

Of Pleas of Outlawry, *vide* *Curs. Canc.* 185, 196, 198, 211, &c. 2 *Vern.* 37, 83, 198.

Of Pleas in Abatement, *vide* *Pract. Attorn.*

Of Pleas in Bar, *vide* *Curs. Canc.* 187.

If on Perusal of a Plea put in, the Plaintiff's Counsel apprehends it will not hold good, then when the Defendant hath enter'd it with the Register (which ought to be done in eight Days after filing) the Plaintiff (if the Defendant does not) may petition and procure an Order from the Lord Chancellor for setting down the Plea to be argued: And the Plaintiff is to prepare a Brief of the Bill and Plea, and apply to his Counsel to be ready for arguing. But if the Defendant hath pleaded a Matter  
of

of Record, or such like Matter, then the Plaintiff, or Defendant, may procure the like Order for arguing thereof; but if the Plaintiff apprehends the Plea to be good, tho' not true, let him reply, and proceed to examine Witnesses, as in case of an Answer.

*1 Vern.*

*Ca. 273.*

Defendant cannot plead after a Proclamation return'd; nor can a Plea be taken upon a general Commission to take an Answer only: But if the Defendant obtains an Order for a Commission to plead, answer and demur, he may take and return a Plea by the said Commission.

*2 Vern.*

*Ca. 33.*

Plea of Outlawry must be upon Oath.

*Idem 182.*

*Contra*, Plea of an Outlawry, with the common Averment of the Identity of the Person, need not be upon Oath, because it might come in on the other Side to aver, that he was not the same Person.



A

A Plea of Privilege ought to <sup>2 Vern.</sup>  
be upon Oath. <sup>Ca. 80.</sup>

If a Defendant does not enter his Plea within eight Days after filing, it is over-ruled of Course, and the Plaintiff may take out Process for an Answer, and Costs in all Cases.

If a Plea not of Record, nor recorded, be pleaded, and the Plaintiff desires the Opinion of the Court, whether allowing it to be true, it be a sufficient Bar, it must be argued; and if it be adjudged *Plea argued.* sufficient, and the Plaintiff take Issue, the Defendant must proceed to prove the Truth of his Plea by Depositions, &c. as in Case of Answers.

If a Plea on arguing be allow'd, the Plaintiff generally pays five Pounds Costs to the Defendant; but if the Plea be over-ruled, the Defendant pays the Plaintiff five Pounds Costs. If a Plea on arguing be ordered to stand for an Answer, Costs are seldom given  
on

on either Side, and the Benefit of the Matter pleaded is generally saved 'till the Hearing.

### *Of Demurrers.*

A Demurrer is the Allegation of the Defendant, which, admitting the Matters of Fact, or some of them alledged by the Plaintiff to be true, shews; that as they are set forth by him, they are insufficient to proceed upon, or to oblige the Defendant to make answer unto, and therefore the Judgment of the Court is thereupon prayed.

If a Demurrer be not, within eight Days after filing, enter'd with the Register, it is of course over-ruled.

Demurrers are to be put in under Counsel's Hand, without Oath.

If a Demurrer be over-ruled, the Defendant pays five Pounds Costs to the Plaintiff; if it be allowed, the Plaintiff pays five Pounds.

Pounds Costs to the Defendant; and after that the Plaintiff may give Notice; and move, that the Bill may be dismiss'd with Costs to be tax'd.

*Note*; Both Pleas and Demurrers may be brought on either by Plaintiff or Defendant, by Petition to Lord Chancellor only.

A Defendant may plead as to Part of the Bill, demur to another Part, and answer to the Residue. *1 Chan. Ca. 56.*

If a Demurrer be put in which is apprehended to hold good, and the Plaintiff has no Mind to drop Proceedings; if he has Equity on his Side, let him apply to the Court, either by Petition or Motion, to amend the Bill, on Payment of twenty Shillings Costs; but this is to be done before the Demurrer is set down to be argued, otherwise the Plaintiff must pay forty Shillings Costs; and if argued, five Pounds. But in case the Demurrer will not hold good, then:



*The Clerk's Associate.*

then let the Plaintiff petition to set down the Demurrer, and prepare Briefs, &c.

A Defendant may demur to any Part of a Bill, provided such Demurrer be filed before he has a Day given to answer; but after a Day given, then he must answer also. ——— Demurrer must be enter'd with the Register within the Time aforesaid, otherwise 'tis disallowed of course, and the Plaintiff may have a *Subpœna* for forty Shillings Costs, and to make a better Answer; and it cannot be set down afterwards, without an Order on Motion.

*Of Replications.*

A Replication is a Reply by the Plaintiff to the Defendant's Answer, and is an averring or enforcing of the Allegations in the Bill, and an avoiding or denying the Matters in the Defendant's Answer.

A

A special Replication is only putting some Part of the Plaintiff's Bill in Issue, and so much of the Defendant's Answer to that Part of the Bill; and in that Case, Witnesses are to be examined only to those Parts, and not to any other Part of the Plaintiff's Bill, or Defendant's Answer.

The Replication must be general, unless the Defendant by his Answer offers new Matter, which will not be brought into Issue by the Plaintiff's Bill.

If there be sufficient Ground upon the Answer alone, without further Proof for a final Decree, the Plaintiff ought to proceed to Hearing, without filing a Replication, or examining any Witnesses.

When the Defendant doth demur, or disclaim only to a Bill, the Plaintiff cannot reply.

Where there is a Plea and Answer, and the Plaintiff replies, the Replication must be to the Answer.

swer as well as the Plea. *Vide*  
2 *Vern. Ca.* 42.

In many Cases, though the Cause require no Witnesses to be examined, yet it may be necessary for the Plaintiff to reply; whereby the Defendant will be put upon Proof of his Answer, and the Plaintiff admitted to prove the Matters of his Bill: But if the Plaintiff reply to an Answer, and without Rejoinder or Rules brings the Cause to Hearing, the Answer shall be taken wholly true, as if there had been no Replication. If the *Subpœna* to rejoin be not served, &c. though it be sued out, the Cause may be heard on Bill and Answer.

*Time to  
reply.*

'Tis now the Course of the Court, that the Plaintiff be allowed till the End of the third Term after coming in of the Defendant's Answer, to file his Replication.

*Bills dis-  
miss for  
want of  
Replica-  
tion.*

If a Bill be dismiss for want of a Replication, or other Proceed-  
ing,

ing, yet the Court, on Application, often orders that the Bill be retained, on Payment of Costs out of Purse; in which Case the Defendant may apply to have such Order discharged, especially if the Plaintiff has been guilty of Delay. But after joining in Commission (yea before the Names are struck) the Defendant has no Method left to get rid of the Cause, but by obtaining a Commission *ex parte*, and after the Depositions are return'd, to get a Rule enter'd to pass Publication, and the Cause set down and heard at his own Request.

When your Witnesses live in Town, or within ten Miles thereof, a Rule must be enter'd to produce Witnesses, and Interrogatories exhibited in the Examiner's Office for Examination of Witnesses there.

On dismissing a Bill before Replication, 'tis not necessary to serve a Notice of Motion, but  
usual

usual only to leave a Note at the Seat of the adverse Clerk in Court, with himself, his Clerk or Agent, and so get the Six Clerk's Certificate, on which the Motion is grounded, without any Affidavit.

After a Replication put in, if the Plaintiff ceases all kind of Prosecution for three Terms, the Bill may upon the Six Clerk's Certificate, and giving Notice of Motion, be dismiss.

*Replica-  
tion how  
filed.*

The Replication being prepared, you are to write near the Top thereof, the Day of the Month and Year when filed, and subscribe near the Bottom on the left Side, the Surname of the Clerk in Court who files it, and also the Term in which the Bill was filed, with the Surname of the Defendant's Six Clerk. This done, you are to enter it in your Cause-Book, and then file it with your Six Clerk, and to acquaint the Defendant's Clerk in Court,  
by



by a Note in Writing, that you have so done.

When the Plaintiff intends to <sup>Of rejoin-</sup> go to Commission, to examine <sup>ing.</sup> Witnesses, he must serve the Defendant with a *Subpæna* to rejoin, or get an Order to serve his Clerk in Court with a *Subpæna* to rejoin, returnable *immediate* (except the Defendant will rejoin *gratis*) before he can have his Commission; and on the Return thereof, the Plaintiff may, by an Order for that Purpose, oblige the Defendant to join and strike Commissioners Names; or in Default thereof, take out a Commission for Examination of Witnesses *ex parte*.

The Party's Clerk in Court en-<sup>The Man-</sup> titled to the Commission, applies <sup>ner of join-</sup> to the Clerk of the other Side to <sup>ing in</sup> join in Commission, which is done <sup>Commis-</sup> in manner following; first, he who has the Carriage of the Commission names a Commissioner, then the other does so also, and so on alternately, till each of them has  
named

*Of striking Commissioners Names.*

named four, which they enter in their Commission-Books; and after each hath consulted his Client or Solicitor, he strikes out two of the four Names given in this manner; first, he that has the Carriage of the Commission strikes out one of those that were named by the other Party; and then the other strikes out one of those that were named by him, and so each of them strikes out one more; which being done, the four remaining are the Commissioners.

*Exceptions to Commissioners.*

Before the Names have been so struck, general Exceptions may verbally be taken to those Commissioners, or one of them; and the common Exceptions to a Commissioner are that he is of Kindred, or allied to the Party for whom he is named; or that he is Master, Landlord or Tenant to him, &c. or for any apparent Cause of Partiality, or siding with either Party.

Commissioners must be indifferent Persons.

I

Where

Where the Defendant hath the Carriage of the Commission, he must give Notice to the Plaintiff.

In *Easter* Vacation ten Days Notice is sufficient, but at other Times generally fourteen.

After you have joined and struck Commissioners Names with the Defendant's Clerk in Court, you proceed to make out a joint Commission to examine; but if the Defendant's Clerk in Court fails to join and strike Commissioners Names, being serv'd with an Order for that Purpose, you may then make out a Commission *ex parte*, directed to your own Commissioners; in which case no Notice of its Execution needs be given to the other Side.

A Commission is sometimes to examine Witnesses as to the Merits of a Cause, or to some particular Point, or it may be touching a Contempt, or the Breach of some Order, &c. It may also be

E

had

had to examine Witnesses *in perpetuam rei memoriam*.

Examination to the Cause is generally before, though sometimes it may be after Hearing; as upon an Account referred to a Master, or upon new Matter arising at the Hearing.

If the Defendant rejoins *gratis*, or the Parties go to Commission by Consent, there needs no *Sub-pœna* to rejoin.

Of taking  
out Com-  
missions.

The first taking out and Carriage of the Commission is usually the Privilege of the Plaintiff; but if the Witnesses for the Defendant live a very long Way from the Plaintiff's, or beyond the Seas, where the Plaintiff hath none, 'tis otherwise; for in such Case, the Defendant may have a Commission for examining his Witnesses only, and have the Carriage thereof.

If the Plaintiff commit any Abuse in the Execution of the first Com-

Commission, the Defendant shall have the Carriage of the second.

These Commissions may be executed twenty Miles from *London*, and not otherwise, without an Order of Court.

The Commission being return'd <sup>Commis-</sup> to the Clerk in Court, you are <sup>sion re-</sup> to observe the same Directions <sup>turn'd.</sup> touching the Indorsement thereon, as before mentioned in relation to a *Dedimus*.

### *Of Interrogatories.*

They are to be pertinent, and only to the Points necessary, and must be either drawn, or perused and signed by Counsel, and must be engrossed on Parchment, and exhibited before any Witnesses are examined on either Side. If Witnesses are to be examined in Town, Interrogatories must be left with an Examiner; if in the Country on Commission, they must be either annexed thereto, or, which



is now most usual, exhibited on opening the Commission. Both Sides generally may exhibit, direct, and counter or cross Interrogatories.

### *Of Publication, Rules, &c.*

The Plaintiff and Defendant having examined such Witnesses as they shall think fit, and being ready to go to Hearing, the Clerks in Court on both Sides may pass Publication by Consent; which is done by signifying the same in one of the Rule-Books; [*v.* Form in Rule-Books.] Upon which Publication passes. When Witnesses are examined in Court, by the Examiners, they may give each other Rules; first an ordinary Rule, and then a Day to shew Cause why Publication should not pass: But where Witnesses are examined by both Sides upon a Commission, one Rule only is sufficient, and the Day given by

by such Rule is a Week, which being expired, and no good Cause shewn to the contrary, Publication shall pass.——Either Party that has examined, and would have Publication, may give the Rule.

The Cause being at Issue, and one Side having examined Witnesses, but the adverse Party having not, nor had a Commission, the other Party is to give him first a Rule to produce Witnesses, and after that a Rule to pass Publication; upon which the other Side must give Notice, and move the Court to enlarge Publication, and for a Commission to examine his Witnesses, if in the Country; or if in Town he may examine them in the Examiner's Office; and if he don't examine Witnesses within the Time limited for enlarging Publication, then Publication passeth: And such Rules for Publication are proper to be given where Witnesses are examined in

Court for the Plaintiff, or *ex parte* by Commission, or where none are examined on either Side, to conclude the adverse Party from examining.

*Publication stay'd or enlarg'd.*

After Examination of Witnesses, Publication may be stay'd or enlarg'd, by Petition or Motion, on reasonable Cause shewn..

*Rules.*

A Day is given to the Defendant to answer.

A Day is given to the Defendant to make a better Answer.

A Day is given to the Defendant to produce Witnesses.

A Day is given to the Defendant to shew Cause why Publication should not pass.

A Day is given to the Defendant for passing Publication upon a joint Commission.

*Note* ; Rules are enter'd in this Manner with the Register, together with the Date when enter'd, and the Clerk in Court's Name.—

They

They must also be enter'd in the Rule-Book belonging to the Six Clerk where the Cause originally began, though the Clerk in Court who enters them be in another Division.

After a Rule is given to pass Publication on a Joint Commission return'd, an Order, before that Rule is expired, may be obtain'd (on Petition to the Master of the Rolls without any Affidavit) to enlarge Publication, but not to hinder setting down the Cause.

After you have enter'd a Rule in the House-Book, you are likewise to enter the same with the Register, for which you pay him one Shilling and four Pence, and then you are to give Notice thereof in Writing to the adverse Clerk in Court.

The Plaintiff may of Course *Setting down Causes.* have the Cause set down for Hearing before the Lord Chancellor, or Master of the Rolls, the Term

next ensuing after Publication; and by special Order it may be the same Term Publication passes; if the Plaintiff omits setting down his Cause the next Term after Publication is past, it may be set down at the Defendant's Request.

The Six Clerks usually give Notice to the Sworn Clerks, when they intend to set down Causes, who thereupon apply to their respective Six Clerks, shewing them the Depositions published, and leaving with them a short Account in Writing, of such Causes as they would have set down to be heard; for which no Fee is taken; but otherwise, if they are set down by the Register, in which Case you must obtain the Six Clerk's Certificate, and therewith apply to the Register, who will set down the Cause, and make you a Note for grounding *Subpana's* to hear Judgment, which you may annex  
to



to your *Subpæna* Note, and on leaving the same at the *Subpæna* Office, have *Subpæna's* made out.

A Cause may be set down to be heard on Bill and Answer, provided there be Matter of Equity admitted by the Answer sufficient to found a Decree upon; but if otherwise, the Bill is generally dismiss with Costs, yet the Court sometimes, tho' very seldom, suffers the Bill to be retain'd with Liberty to reply and proceed on Payment of five Pounds Costs to the Defendant.

'Tis often necessary to have an *Attending* Affidavit of Service ready at the *on Hearing.* Hearing, so that Service may be proved if the Plaintiffs should not attend; but this Affidavit is seldom filed till after Hearing, for if the Plaintiffs attend 'tis useless. — The Cause being in the Paper for Hearing, you are to attend the Court with the Pleadings, that the same may be read as Occasion requires. Af-

*Decree.*

ter Debating the Matter, the Court pronounces the Order or Decree, the Minutes of which are taken down, and sometimes read in Court by the Register.

By applying to the Register, you may read over the Minutes, and on leaving with him a Brief or other Instructions, have the Decretal order drawn up, &c.

*Proceed-  
ings on  
Non-ap-  
pearance  
at the  
Hearing.*

If the Defendant appears not at the Hearing, the Plaintiff's Counsel opening the Bill, then on reading an Affidavit, that he was serv'd with a *Subpœna* to hear Judgment, and the Defendant's Answer, and if the Matter appears plainly for the Plaintiff, the Court will decree it for him accordingly; tho' in such Case a Day is generally given to the Defendant to shew Cause, by serving him with a *Subpœna*, at the Return thereof, to shew Cause against the Decree; but before the Defendant is to be admitted to shew Cause against the Decree,

cree, he is to pay the Plaintiff his Costs for that Day's Default in Attendance, to be tax'd by the Master; but before he is admitted to shew Cause, which must be to petition the Lord Chancellor or Master of the Rolls, to set down the Cause again for the Judgment of the Court, he must produce a Certificate from the Plaintiff's Attorney, that the Costs are paid. If upon Hearing the Plaintiff doth not appear, then upon the Defendant's making an Affidavit that he was serv'd with a *Subpœna* to hear Judgment at the Suit of the Plaintiff, the Court on reading that Affidavit will dismiss the Plaintiff's Bill with Costs to be tax'd. And if the Cause was set down at the Defendant's Request, which he may do the second Term after Publication passes, if the Plaintiff neglects to set the Cause down the Term after Publication passes, then the Defendant

dant, on his setting it down, must take out a *Subpœna* to hear Judgment at the Request of the Defendant, and serve it on the Plaintiff, and make an Affidavit of the Service thereof; and if the Plaintiff refuses to appear and open his Bill, on reading that Affidavit, the Court will dismiss the Plaintiff's Bill with Costs to be tax'd.

*Decree  
what, and  
by whom  
made.*

The Decree is an Order of Court, determining the Right of the Matters in Question, according to Equity and good Conscience; and it is made and pronounced in Court by the Lord Chancellor, or Master of the Rolls.

*Note.*

When an intricate Account is directed by a Decree to be taken, and a regular Charge on the Defendant cannot be made out by the Pleadings, without further Inquiry, then Interrogatories may be exhibited before the Master, for examining any of the Parties by the Decree directed

rected to be examined ; and their Examinations being return'd, the Charge may be compleated.

When the Parties are many, so that they can't conveniently be serv'd, on Affidavit thereof, an Order may on Motion be obtain'd, that Service of the Order *Nisi*, or other Order, on the Clerk in Court or Solicitor, may be deemed good Service.

*Of Execution of Decrees,  
&c.*

In Order to enforce Obedience to a Decree, it must be serv'd on the Party, by shewing the Decree it self under Seal of the Court, and delivering a Copy thereof ; and if he pays not Obedience thereto, you proceed to take out all the Processes of Contempt, as Artachment, Proclamation, Commission of Rebellion, &c. And when the Party



ty is taken upon any of the said Processes, he is, in Strictness, to be straitly imprison'd 'till he yields Obedience to the Decree, *viz.* till he performs that Part of it which is presently to be done, and gives Security for Performance of that Part, which is to be done *in futuro*.

*Decree*

*Possession of*  
*Lands.*

If the Decree is for Land, and the Party continues obstinate after his Imprisonment, the Court usually grants an Injunction for the Possession thereof to be yielded up to the other Party; and if this be disobey'd, on Oath made thereof, the Court will grant a Commission to the Sheriff of the County where the Lands lie, to put the Party in Possession, and if need be, a Writ of Assistance may be had, which is directed to the Sheriff, commanding him to be aiding in putting the Party in Possession.

*Decree for*  
*Payment of*  
*Money,*  
*&c.*

When the Decree is for Payment of a Sum of Money, it must be

be serv'd, and the Money demanded; and where the Decree is for Discharge and Payment of Debts and Duties, a Sequestration is sometimes granted both of the Goods and Profits of the Lands.

*Note;* There are several Writs of Execution of Decrees: And Bills, Answers, Replications, Depositions, &c. may be exemplified, and such Exemplifications are as effectual to be pleaded or produced in Evidence, as the Decrees, Bills, Answers, or Depositions themselves.

### *Of Injunctions.*

On Bills praying Injunctions, *Subpœna's* for Appearance may be issued and serv'd before the Bill is filed.

An Injunction is a Kind of Prohibition granted in divers Cases. 'Tis generally grounded on an Order

Order obtain'd on Motion either upon Matter confess'd, or upon some Matter appearing of Record, or by Deed, Writing, or other Evidence shewn in Court, from whence there is a Probability that the Party ought to be relieved in *Equity*; and sometimes it is granted before Answer, when 'tis usually only until Answer and further Order.

An Injunction may be had on a *Dedimus*, on an Attachment, on an Order for Time, on an insufficient Answer.

If an Injunction be obtained on an Attachment for want of an Appearance or Answer, then 'tis best to put in a sufficient Answer, and to move to dissolve the Injunction *Nisi*. If no Cause be shewn (on an Affidavit that the Order *Nisi* was served on the Plaintiff's Clerk in Court) the Injunction will be dissolved: But if Cause be shewn on the Merits, the Injunction is sometimes con-

continued until the Hearing. And if the Plaintiff files Exceptions and shews them for Cause, he is generally ordered to procure the Master's Report in four Days, or some short Space of Time; or in Default thereof the Injunction is to be dissolved.

The Order to dissolve the Injunction *Nisi* must be served either on the Party himself, or, which is most usual, on the Plaintiff's Clerk in Court.

*Of a Ne exeat Regnum.*

*Ne exeat Regnum*, Is a Writ F. N. B. to restrain a Subject from leaving 85. the Kingdom without the King's Licence, or the Order of the Court. — It may be directed to the Sheriff to make the Party find Surety, for such a sum of Money as shall be named in the Writ, that he will not depart

part the Realm, and on his Refusal, to commit him to Prison.

It is granted on an Affidavit, when there is just Cause to fear, and good Grounds to believe the Defendant will flie to some other Country, in order thereby to defeat the Plaintiff of his just Demand, or to avoid the Justice of the Court; and when thus granted, the Defendant must generally give Bond in the Penalty of double the Sum indorsed on the Back of the Writ, for yielding Obedience to it, or satisfy the Court by Answer, Affidavit or otherwise, that he will not go out of the Realm, &c.

It has been granted to stay a Defendant from going to *Scotland*, for though 'tis not out of the Kingdom, yet it is out of the Process of the Court, and within the same Mischief. Vide 2 *Salk.* 702. 3 *Mod.* 127, 169. 4 *Mod.* 179. — 4 *Leon.* 29. 3 *Nels. Abr.* 211.

*Of*



*Of a Homine Replegiando.*

*Homine Replegiando*, Is a Writ that lies against one who clandestinely takes or conveys away, or keeps in his Custody, another Person, against his Will or Consent.

It is obtained on Affidavit of the Matter, and Petition or Motion to the Lord Chancellor or Master of the Rolls, and is directed to the Sheriff. Vide *F. N. B.* 66. *New Nat. Br.* 151, 152. 2 *Lill.* 23. 2 *Salk.* 581. 4 *Mod.* 183.

*Of a Habeas Corpus.*

*Habeas Corpus*, Is a Writ directed to the Warden of the Prison of the Fleet, or to his Deputy there, or to the Marshal of the King's Bench, or to his Deputy, or to the Keeper of Newgate, or his

his Deputy, or to a Sheriff or Gaoler, to bring into this Court the Body of some Person in his Custody; and it is obtained on Petition or Motion, but commonly on Motion.

3 Chan.  
Rep. 13.

It is generally used to shew Cause why a Prisoner does not answer a Bill, and in order to a Party's Answering and Clearing his Contempts, so that he may be either discharg'd or fined; or such Order may be made touching the Matter as the Court shall see Cause: A Prisoner in a County Gaol, or in *B. R.* being in Contempt, for not performing a Decree of this Court, may be brought up by this Writ, and turn'd over to the Fleet. A Prisoner in Execution, brought up to this Court by *Habeas Corpus*, shall be remanded to the Prison from whence he came.

Where a Person apprehends himself to be wrongfully imprison'd

prison'd, he may obtain this Writ to procure his Inlargement, which is called a *Habeas Corpus cum Causa*.

*Of Affidavits.*

An Affidavit is a Deposition or Attestation of a Thing by Oath, and generally in Writing. — It must be sworn before some Person who hath good Authority to administer such Oath ; and the true Place of Habitation or Residence, and true Title or Addition of every Person who shall make an Affidavit, is to be inserted therein. It ought to set forth the Matter of Fact *only*, which the Party intends to prove thereby, and not the Merits of the Cause, of which the Court is to judge.

Affidavits are usually for certifying the Service of Process, or other Matters touching the Proceedings

ceedings in a Cause. ——— Generally where any Motion is made that is not of Course, an Affidavit of the Facts alledged must be read in Court.

You must take all possible Care that they be strictly true ; for nothing is of greater Consequence. And 'tis necessary that every Affidavit of the Service of Process, &c. should fully prove a good Service.

### *Of Petitions.*

A Petition is a Supplication in Writing generally to the Lord Chancellor or Master of the Rolls, setting forth some Matter or Cause, whereupon the Petitioner prays some Direction or Order.

Most Things which may be moved for of Course may be also petition'd for.

After the Petition is drawn and ingrossed, it must be deliver'd to the

Lord Chancellor or Master of the Rolls's Secretary, who get them answer'd and signed ; and if it be a Matter of Course, it is generally forthwith granted ; but if it requires Examination, or the other Side to be heard, then it is usually ordered, That all Parties attend the next Day of Petitions, at which Time the Matter is debated, and such Order made as the Court thinks fit. And in the Vacation, if the Matter be of Consequence, and requires Dispatch, a Petition may be preferr'd, and the Parties ordered to attend the Lord Chancellor or Master of the Rolls, and have Justice done them ; this Court being always open.

The Lord Chancellor only is usually petitioned for Rehearings, touching Pleas, Demurrers or Exceptions, and concerning Decrees and special Orders, &c. But in most other Cases of Petition,

*Note.*



tition, the Master of the Rolls is generally applied to.

### *Of Motions.*

A Motion is a Request made *Ore tenus* to the Court by Barristers for what concerns their Clients Causes, and may be for any Favour desired of the Court, as to enlarge Time for Payment of Money, or for Publication, or to hasten the same, &c.

Sometimes Motions are of Course, *viz.* where by standing Rules of the Court, the Thing desired is of Course granted; and in these there is no Occasion to serve a Notice of Motion on the other side.

Other Motions, which are not of Course, are not grounded on such general Rules or Usage of the Court, and are granted or denied as the Court thinks fit, on hearing Counsel on both Sides.

If they be without Notice they are generally granted only *Nisi*, or Conditional.

All Motions on important Affairs are rarely granted without Notice, and generally in such Cases an Affidavit of the Facts alledged must be read in Court.

In Term-Time, every *Tues-* Seal Days.  
*day*, *Thursday* and *Saturday*, are Days for Sealing Writs, and every *Thursday* is a Day for Mo- Motion  
tions, unless it happen to be the Days. second or last Day of the Term. Every Day in Term, when the Court sits, are common Motions, which are moved after the Causes are heard; so also are the first and last Days of the Term general Days for Motions only, and for Sealing of Writs. In Vacation only Seal Days appointed by the Lord Chancellor, are Days of Motion.

The Court should not be moved, for that which may be done without Motion.

*Of Notices of Motion.*

Notices of Motion must be in Writing, and signed by the Clerk in Court, Attorney or Solicitor, otherwise they are not good. They must be served upon the adverse Party, or, which is most usual, on his Clerk in Court, or deliver'd at his Seat, to his Clerk or Agent there. They are to be served two Days before the Motion is to be made, of which a proper Affidavit must be made and filed before the Court is moved.

Every Thing the Party moves for, should be express'd in the Notice.

'Tis not good to serve a Notice of Motion on *Saturday*, and to move on *Monday*.

*Of*

*Of References.*

A Reference is an Order of Court, whereby diverse Matters, as Accounts, &c. are referr'd to a Master.

The Order of Reference being produced and shewn to the Master, or left at his Office, he at the Request of the Party, his Clerk in Court, Attorney or Solicitor, issues a Warrant appointing a Time and Place, usually his Chambers, for the Parties concern'd to attend him ; which being served on the adverse Party, or his Clerk in Court, but usually on the Clerk in Court, by shewing it and delivering a Copy ; if he attends not, the Master will grant a second Warrant, appointing a further Day ; and if he does not then attend, a third Warrant issues, which is commonly called a Peremptory

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War-

Warrant; and then not attending pursuant thereto, the Master will proceed and make his Report *ex Parte*, of that Side that attends and desires it.

*Reference  
to Arbitrators.*

A Suit may by Consent be referr'd to Arbitrators, whose Arbitration is in Nature of a Master's Report, and may also be excepted to.

### *Of Reports.*

When Matters are referr'd to a Master, to be stated or examined into, &c. his Certificate therein to the Court is called a Report : Upon filing whereof with the Register, the Party in whose Favour the Report is made, if it be after a Hearing, he moves the Court by his Counsel to confirm the Report, which is ordered, unless Cause be shewn in eight Days after the Party is Personally serv'd with the said Or-



Order : After that, on Affidavit thereof filed, and taking the Register's Certificate, there is no Cause shewn by the Party, he moves the Court to make the said Order *Nisi* absolute.

Masters in their Reports are not to exceed the Order of Reference. ——— They are to be drawn briefly and clearly, and they must be filed with the Register within four Days after the making and signing.

When a Master makes a Report after a Hearing, he first makes a Draught thereof, and gives out a Warrant (to the Party desiring it) he hath so done, and then each Side takes a Copy of the Report from the Master ; and then each Side brings in Objections thereto before the Master, if any they have ; and both Sides are heard on those Objections before the

*The Clerk's Associate.*

Master, which Objections the Master allows or disallows, as he sees Cause; and no Exceptions can be taken by either Party, to the Master's Report, unless the Party first take Objections to the Draught of the Master's Report.

Proceedings grounded on Reports or Certificates not filed, shall be void, and Costs paid by the Party offending.

After a Report is absolutely confirmed, it cannot be easily alter'd.

*Of Orders.*

They are of several Sorts, and are generally obtained on Petition or Motion. Sometimes they are made on Hearings, and then they are called Decretal Orders; and sometimes they are obtained by Consent of Parties. They are pronounced in open Court, and are drawn up by the  
Re-

Register from his Minutes taken in Court; and if there be any Difficulty in the Meaning of the Minutes, the Court must be applied to by Petition, to explain or amend the Minutes, if it cannot be otherwise done; and the Court will order the Register, and all Parties to attend therein.

The Register is not to draw up or sign any Order, grounded upon an Affidavit, unless it be first filed.

You may inspect the Register's Book, and there see if the Minutes are taken down right, and you may have a Copy of 'em. When an Order is drawn up, the adverse Party, if he thinks fit, may have a Copy, and before the Order is pass'd and enter'd, he may be allowed four Days or some such Time, to make his Objections; but this is intended of special Cases. If you want an Order drawn on Petition, you must apply to the Register for that Purpose, and with him leave

the Petition: But if the Order be obtained upon Motion, then you may leave a Brief, or other proper Instructions. — When the Order is perused and settled, it must be return'd to the Register to be pass'd, which being done, you must leave it with one of the entering Registers to be enter'd; after which you may serve it on the other Side.

Orders must be drawn up, pass'd and enter'd, before allowed.

The usual way of serving an Order, is to shew it to the Clerk in Court, on the other Side, and at the same Time to deliver him a true Copy thereof, or to leave a Copy with the Clerk in Court's Clerk or Agent, at his Seat in the Office, at the same Time shewing him the original Order, duly pass'd and enter'd.

An Order for Payment of Costs, or *Subpœna* for Costs, must be serv'd Personally on the Party that is to pay; and if it be for  
Pay-

Payment of other Money, a Writ of Execution of such Order is to be Personally serv'd; and until the Order under Seal be served on the Party himself, he is not *Ordinarily* to be committed for Contempt or Disobedience to it.

*Of Rehearings.*

'Tis sometimes necessary to petition for a Rehearing; but this must be before the Decree is signed and inrolled. — When any Cause is to be reheard, the Lord Chancellor, &c. is to have a Copy of the Decreetal Order appeal'd from, and also a Copy of the Petition for Rehearing, two Days before reheard, which is usually left with his Lordship's Porter, &c. with five Shillings.

If either Party apprehends himself aggrieved by a Decree, he may Petition the Chancellor for a Rehearing, in Case the Cause was heard before him; but if it



was heard at the Rolls, then Application may either be made to the Master of the Rolls, by Petition for Rehearing before him, or to the Chancellor, by Petition of Appeal; in which Cases the Petitioner must deposit ten Pounds with the Register, nine Pounds ten Shillings of which is generally return'd, if he prevails, yet the Court sometimes orders it to be divided; as to the other ten Shillings, 'tis retained by the Register for his Trouble in keeping and taking Care thereof, and is called his Poundage.

When there is an Error in a Decree in Matter of Law, there may be a Bill of *Review*, which is in Nature of a Writ of Error, or an Appeal to the House of Lords.

### *Of Appeals.*

An Appeal cannot regularly be made to the House of Lords, till  
after

after a Rehearing before the Chancellor, if the Cause was heard by the Master of the Rolls. Appeals are to be signed by two noted Counsels, and exhibited by way of Petition ; the Petition, or Appeal, is lodged with the Clerk of the House; of Lords, and read in the House whereon the Appellee is ordered to put in his Answer, and a Day is fixed for Hearing the Cause ; and after Counsel heard on both Sides, the Lords will affirm or reverse the Decree of the *Chancery*, and finally determine the Cause by a Majority of Votes, &c.

*Appeals in Parliament. N. Chan. Rep. 468. See Cases in Parliament, p. 15 to 24. 67 to 88, 108, 110, 137, 154, &c.*

*The Returns of the Terms.**Michaelmas.*

1. { From the Day of St. Michael next ensuing } In three Weeks af-  
       in three Weeks. ————— } ter St. Michael.  
       { From the Day of St. Michael in three }  
       Weeks next ensuing. ————— }
2. { From the Day of St. Michael next ensuing } In one Month after  
       in one Month. ————— } St. Michael.  
       { From the Day of St. Michael in one Month }  
       next ensuing. ————— }

3. On

3. { On the Morrow of *All-Souls* next ensuing. } On the Morrow of  
*All-Souls.*

4. { On the Morrow of *St. Martin* next en- } On the Morrow of  
 suing. } *St. Martin.*

5. { In eight Days after *St. Martin* next ensuing. } In eight Days after  
 { In eight Days next ensuing after *St. Martin.* } *St. Martin.*

6. { In fifteen Days after *St. Martin* next ensuing. } In fifteen Days after  
 { In fifteen Days next ensuing after *St. Martin.* } *St. Martin.*

*Note; Michaelmas Term has Six Returns,*

*Hillary.*

*Hillary.*

1. { In eight Days after St. *Hillary* next ensuing. } In eight Days after  
 { In eight Days next ensuing after St. *Hillary*. } St. *Hillary*.

2. { In fifteen Days after St. *Hillary* next ensuing. } In fifteen Days after  
 { In fifteen Days next ensuing after St. *Hillary*. } St. *Hillary*.

3. { On the Morrow of the Purification of the } On the Morrow of  
 { blessed Virgin *Mary* next ensuing. — } the Purification.

4. In



{ In eight Days after the Purification of the  
 blessed Virgin *Mary* next ensuing. — } In eight Days after  
 4. { In eight Days next ensuing after the Purifi- the Purification.  
 cation of the blessed Virgin *Mary*. — }

*Note; Hillary Term hath four Returns.*

*Easter.*

{ In fifteen Days after *Easter* next ensuing. — } In fifteen Days after  
 1. { In fifteen Days next ensuing after *Easter*. — } *Easter.*

2. From

2. { From the Day of *Easter* next ensuing in  
three Weeks. ————— } In three Weeks after  
{ From the Day of *Easter* in three Weeks next  
ensuing. ————— } *Easter.*

3. { From the Day of *Easter* next ensuing in  
one Month. ————— } In one Month after  
{ From the Day of *Easter* in one Month next  
ensuing. ————— } *Easter.*

4. { From the Day of *Easter* next ensuing in  
five Weeks. ————— } In five Weeks after  
{ From the Day of *Easter* in five Weeks next  
ensuing. ————— } *Easter.*

5. On

5. { On the Morrow of the Ascension of our Lord } On the Morrow of  
next ensuing. } the Ascension.

*Note; Easter Term hath five Returns.*

*Trinity.*

1. { On the Morrow of the Holy Trinity next } On the Morrow of  
ensuing. } the Trinity.

2. { In eight Days after the Holy Trinity next } In eight Days after  
ensuing. } Trinity.  
3. { In eight Days next ensuing after the Holy }  
Trinity. }

3. In

3. { In fifteen Days after the Holy Trinity next  
 ensuing. ————— } In fifteen Days after  
 { In fifteen Days next ensuing after the Holy  
 Trinity. ————— } Trinity.

4. { From the Day of the Holy Trinity next en-  
 suing in three Weeks. ————— } In three Weeks after  
 { From the Day of the Holy Trinity in three  
 Weeks next ensuing. ————— } Trinity.

*Note; Trinity Term hath four Returns.*

Im-

Immediately after the Receipt of this Writ. ----- Immediately.

Without Delay. ----- Without Delay.

N. B. The Word [*next*] must be added where it is requisite, as where  
the great Feasts be either to come, or past.

*The Clerk's Associate.*

*The*



*The Direction of a Bill, usually called the Title.*

To the Right Honourable *Philip* Lord *Hardwick*, Baron of *Hardwick* in the County of *Gloucester*, Lord High Chancellor of Great Britain.

*The Conclusion, commonly called, the Words of Course.*

*May it please your Lordship,* the Premises consider'd, to grant unto your Orator his Majesty's most gracious Writ or Writs of *Subpæna*, to be directed to the said *C. D. E. F.* and *G. H.* and other their Confederates when discovered, thereby commanding them, and every of them, at a certain Day, and under a certain Pain therein to be limited, personally to be and appear before your Lordship in this Honourable Court,

Court, then and there to answer all and singular the Premisses; and to stand to, perform and abide such Order, Direction and Decree therein, as to your Lordship shall seem meet. And your Orator shall ever pray, &c.

*The Conclusion of a Bill of Revivor.*

*May it please your Lordship;* the Premisses consider'd, to grant unto your Orator his Majesty's most gracious Writ of *Subpœna*, to revive *and answer*, issuing out of and under Seal of this Honourable Court, to be directed to the said *C. D.* therein and thereby commanding him personally to be and appear before your Lordship in this Honourable Court, then and there to shew Cause, if he can, why the said Suit and Proceedings so abated, as aforesaid, should not stand and be revived,  
and

*The Words in Italian Character must be omitted where requisite; as where the Bill is only to revive and not answer.* and put into the same Condition; as they were in at the Time of the Abatement thereof, *and answer all and singular the Premises* *misses* *aforsaid*; and also stand to and abide such further Order, Direction and Decree therein, as to your Lordship shall seem meet. And your Orator shall ever pray, &c.

*Another of the same.*

*May it please your Lordship,* to grant unto your Orators and Oratrixes, his Majesty's most gracious Writ or Writs of *Subpœna*, to revive *and answer*, issuing out of and under the Seal of this Honourable Court, to the said *J. H.* to be directed, thereby commanding him at a certain Day, and under a certain Pain therein to be limited, personally to be and appear before your Lordship in this Honourable Court, then and there *to answer the Premises and*

to shew Cause, if he can, why the said Suit, and all the Proceedings therein, should not stand revived, and be in the same Plight and Condition they were at the Decease of the said *A. H.* and that the said Cause and Proceedings may be revived. And your Orators and Oratrixes shall ever pray, &c.

*Conclusion of a Bill for an Injunction.*

May it please your Lordship, to grant unto your Orators, not only his Majesty's most gracious Writ of Injunction, for restraining *The Words in Italic Character are to be varied when requisite; as where an Injunction is pray'd to stay Waste.* the said Defendant's Proceedings at Law against your Orators touching any of the Matters in Question, but also his Majesty's most gracious Writ or Writs of Subpœna, under the Seal of this Honourable Court, to be directed to the said *J. D.* and *A. L.* and the rest

*The Clerk's Associate.*

rest of their Confederates, when discovered, thereby commanding them and every of them, at a certain Day, and under a certain Pain therein to be limited, personally to be and appear before your Lordship in this high and honourable Court, then and there, upon their severall corporal Oaths, full, true, direct and perfect Answer to make to all and singular the Premisses; and further, to stand to and abide such Order and Decree therein, as to your Lordship shall seem meet. And your Orator shall ever pray, and so forth.

*Words of Course before and after an Answer.**Before.*

*This Defendant*, now and at all Times hereafter, saving and reserving to himself, all and all manner of Benefit and Advantage of Exception to the many Incertainties,



tainties, Insufficiencies and Imperfections in the said Complainant's Bill of Complaint contained, for Answer thereunto, or unto so much thereof as this Defendant is advised is any Ways material for him to make Answer unto, he answereth and saith, ———

*After.*

*Without that*, that there is any other Matter or Thing in the Complainant's said Bill of Complaint contained, material or effectual for this Defendant to make Answer unto, and not herein and hereby sufficiently answered unto, confess'd or avoided, traversed or deny'd, is true, to the Knowledge and Belief of this Defendant; all which Matters and Things this Defendant is ready to aver and prove, as this honourable Court shall award; and humbly prays to be hence dismiss'd, with his reasonable Costs and Charges in this Behalf wrongfully sustained.

G

*Before*

*Before a further Answer on  
Exceptions.*

*The said Defendant*, for further Satisfaction of this Honourable Court, for further Answer unto the several Exceptions taken by the Complainant to his former Answer, doth answer and say, as he is advised,——

*After.*

*Without that, that, &c.*

*Words of Course before a Plea.*

*This Defendant*, by Protestation, not confessing or acknowledging all or any of the Matters and Things in the Complainant's said Bill of Complaint contain'd to be true, in such Manner and Form as the same are therein and thereby charged and alledged, for Plea unto the said Bill saith, *That*——

*After.*

*After.*

All which Matters this Defendant doth aver and plead in Bar of the Complainant's said Bill, and of the Complainant's pretended Demands, for which he seeks to be relieved by his said Bill; and this Defendant prays to be hence dismiss'd with his reasonable Costs, in this Behalf wrongfully sustained.

*Another after.*

*And therefore* this Defendant doth plead the said \* ————— \* *Act of Parliament, &c.* in Bar to the said Complainant's Bill, and humbly demands the Judgment of this Honourable Court, whether he shall be put to make any further or other Answer thereunto; and prays to be hence dismiss'd with his Costs and Charges in this Behalf wrongfully sustained.

*Words of Course before a Demurrer.*

*This Defendant*, by Protestation, not confessing or acknowledging all or any of the Matters or Things in the said Complainant's Bill of Complaint contained to be true, in such Manner and Form as the same are therein and thereby set forth and alledged, doth demur thereunto, and for Cause of Demurrer shews, That

---

*After.*

Wherefore this Defendant doth demur in Law unto the Complainant's said Bill of Complaint, and all the Matters and Things therein contained, and humbly demands the Judgment of this Honourable Court, whether he shall be compelled to make any other or further Answer thereunto; and prays to be dismissed with his reason-

reasonable Costs, in this Behalf wrongfully sustained.

*Another before.*

*These Defendants*, by Protestation, not confessing or acknowledging all or any of the Matters or Things in the Complainant's Bill of Complaint contained to be true, in such Manner, Sort and Form as the same are therein and thereby set forth and alledged, say they are advised, 'That, —

*Another after.*

*Wherefore*, and for divers other Errors and Imperfections in the said Bill appearing, these Defendants do demur in Law thereto, and humbly demand the Judgment of this Honourable Court, whether they shall be obliged to make any other or further Answer thereunto; and pray to be hence dismissed with their reasonable



Costs and Charges, in this Behalf  
wrongfully sustained.

*Caption to a Demurrer, Plea,  
and Answer taken by Com-  
mission.*

*Curf. Can.*  
177, 178,  
*&c.*  
*Vern. 2.*  
*Vol. Ca.*  
33, 80,  
182.

This Answer and this Plea were  
taken on the Defendant's Oath  
upon the Holy Evangelists.  
And this Demurrer of the  
said Defendant was taken  
without Oath, at [*such a*  
*Place*] in the County of ——  
the——Day of——in the  
——Year of the Reign of  
our Sovereign Lord King  
George the Second; by Vir-  
tue of the Commission an-  
nexed. Before

*A. B.* } Commissioners.  
*C. D.* }

*Words*

*Words of Course before and  
after Exceptions.*

*In Chancery.*

Between *A. B.*—Complainant.  
*C. D.*—Defendant.

*Before.*

Exceptions taken by the said  
Complainant to the Insufficiency  
of the Answer of the said Defen-  
dant, put in to the said Com-  
plainant's Bill of Complaint.

*After.*

In all which Particulars the  
Plaintiff doth insist the said  
Defendant's Answer is evasive  
and insufficient, and there-  
fore prays he may amend the  
same.

*E G.*

G 4

Certi.

**Certificates.**

*Six Clerk's Certificate to dismiss a Bill, before Replication.*

Between, &c. ———

**T**HESE are humbly to certify to this Honourable Court, That the Defendant's Answer to the Plaintiff's Bill was filed the ——— Day of ———, since which there have been no further Proceedings, as appears by my Book this ——— Day of ———.

*After a Replication.*

**T**HESE are humbly to certify to this Honourable Court, That the Defendant's Answer to the Plaintiff's Bill was filed

led the ——— Day of ——— to  
which the Plaintiff replied the —  
Day of ———, since which there  
have been no further Proceedings,  
as appears by my Book. Dated  
this ——— Day of ———

*To set down a Cause.*

**T**H E S E are humbly to cer-  
tify to this Honourable  
Court, That the Pleadings in this  
Cause are duly filed, and I have  
seen the Depositions published.  
Dated this ——— Day of ———

*Certificate of a Person's being  
at Age.*

**T**H E S E are to certify, That  
*A. B.* the Son of *C. D.* was  
baptized the ——— Day of ——— in  
the Year of our Lord ———, as  
appears by the Register's Book kept  
for the registering of Births and Bu-  
rials, in the Chapel of ——— in  
the Parish of ——— in the County  
G 5 of

*The Clerk's Associate.*

of— ——. Witness our Hands this  
— — Day of — — —

	<i>E. F.</i> Minister.
	<i>G. H.</i> } Church-
Witness,	<i>J. K.</i> } wardens.
<i>L. M.</i>	

*Certificate of having assigned  
a Guardian for an Infant.*

To the Right Honourable *Philip* Lord *Hardwick*, Baron of  
*Hardwick* in the County of  
*Gloucester*, Lord High Chan-  
cellor of *Great Britain*.

**T**HESE are humbly to cer-  
tify your Lordship, That  
by Virtue of the Commission here-  
unto annexed, we have called be-  
fore us the Defendant *A. B.* the  
Infant therein named, and at his  
Request have assigned and appoin-  
ted him the said *C. D.* for his  
Guardian, by him to answer and  
defend



defend this Suit; and the said *C. D.*  
was this——Day of——in the  
Year——duly sworn at——in  
the County of——to the An-  
swer of the said *A. B.* the Infant,  
as his Guardian, by Virtue of the  
said Commission. Before us

*E. F.*  
*G. H.* } Commissioners.  
*J. K.* }

*Certificate of having as-  
signed a Guardian for a  
Lunatick.*

To the Right Honourable, &c.

**W**E whose Names and Seals  
are here-under subscribed  
and set, do humbly certify, that  
by Virtue of his Majesty's Com-  
mission out of the High Court of  
Chancery to us and others directed,  
and to these Presents annexed, the  
Day of the Date of these Presents,  
we

we went unto *J. B.* in the said Commission named, being in his own House, in the Town of *K. &c.* when and where, after strict Inspection and Examination made, according to the Tenor of the said Commission, we found the said *J. B.* by Reason of Age and other Infirmities, to be of very unsound Memory and Understanding, and no way sufficient or fit the said Suit in the said Commission mentioned to answer unto or defend: And therefore, in Pursuance and Obedience to the said Commission, and Order therein mentioned, we have nominated and appointed, and by these Presents do nominate and appoint *W. S.* of the Town of *K.* aforesaid, Gent. Guardian of the said *J. B.* the said Suit to answer and defend, as by the said Commission is commanded. All which we humbly certify, and submit to the Consideration of this Honourable Court. In Testimony

mony whereof, we have hereunto  
set our Hands and Seals, &c.

*Form of a Commissioner's and  
Clerk's Oath.*

*The Commissioner's Oath.*

1<sup>st</sup>. **Y**OU shall, according to  
the best of your Skill and  
Knowledge, truly, faithfully, and  
without Partiality to any or either  
of the Parties in this Cause, take  
the Examinations and Depositions  
of all and every Witnes and Wit-  
nesses produced and examined by  
Virtue of the Commission here-  
unto annexed, upon the Interro-  
gatories now produced, and left  
with you. And you shall not  
publish, disclose or make known,  
to any Person or Persons whatso-  
ever, except to the Clerk or  
Clerks by you employed, and  
sworn to Secrecy in the Execu-  
tion of this Commission, the Con-  
tents

*The Clerk's Associate.*

tents of all or any of the Depositions of the Witnesses, or any of them, to be taken by you and the other Commissioners in the said Commission named, or any of them, by Virtue of the said Commission, until Publication shall pass by Rule or Order of the High Court of Chancery.

So help you God.

*The Clerk's Oath.*

<sup>2d.</sup> **Y**OU shall truly, faithfully, and without Partiality to any or either of the Parties in this Cause, take and write down, transcribe and ingross the Depositions of all and every Witness and Witnesses produced before and examined by the Commissioners, or any of them named in the Commission hereunto annexed, as far forth as you are directed and employed by the said Commissioners, or any of them, to take, write down, or ingross the said Depositions,

tions, or any of them. And you shall not publish, disclose or make known to any Person or Persons whatsoever, the Contents of all or any of the Depositions of the Witnesses, or any of them, to be taken, wrote down, transcribed, or ingrossed by you, or whereto you shall have Recourse, or be any way privy, until Publication shall pass by Rule or Order of the High Court of Chancery.

So help you God.

Peti-



**Petitions.***Petition to the Lord Chancellor for Letters Missive.*Between *A. B.* Complainant.

<i>C. Duke of S.</i>	}	Defendants.
and		
<i>J. Duke of B.</i>		

To the Right Honourable, &amp;c.

*The humble Petition of the Complainant,*

Sheweth,

**T**HAT your Petitioner having exhibited his Bill in this Honourable Court, to be relieved against the said Defendants, for the Matters therein contained, cannot, by the ordinary Process of this Honourable Court, compel them

them to answer the same, until  
your Lordship has first written  
unto them so to do.

Your Petitioner therefore  
humbly prays your Lord-  
ship's Letters directed to the  
said Defendants, to appear  
in this Honourable Court,  
on the———next, to your  
Petitioner's said Bill——.

*And your Petitioner shall ever  
pray, &c.*

*Petition to the Master of the  
Rolls, to put in an Answer  
without Oath.*

Sheweth,

**T**HAT your Petitioner is made  
a Party to a Bill exhibited  
in this Honourable Court, for  
Form sake.

That the Plaintiffs are willing  
to take your Petitioner's Answer  
without

without Oath, and have by their Clerk in Court signified their Consent thereto.

*Your Petitioner* therefore humbly prays your Honour, That he may be at Liberty to put in his Answer without Oath, the Plaintiff's Clerk in Court signifying his Consent thereto.

*And your Petitioner shall ever pray, &c.*

I consent to the Prayer of this Petition,

*A. B.* Clerk for the Plaintiffs.

*Petition to take an Answer de novo.*

Sheweth,

**T**HAT sometime since the Plaintiff filed his Bill in this Honourable Court against your Petitioner, and a Commission issued

fued to take your Petitioner's Answer thereto, by Virtue whereof it was taken, returned and filed, and taken off the File in order to be copied; but on looking over the same, the Caption thereof was discovered to be erroneous; whereupon the Plaintiff obtained an Order to suppress the said Answer, no Words or Expression being therein made use of to shew that such Answer was taken upon the Oath of your Petitioner.

*That* forasmuch as this is in your Petitioner's own Delay, who is desirous that this Mistake should be rectified, and is willing to pay the Plaintiff his Costs out of Purse touching the said Order;

*Your Petitioner* therefore humbly prays your Honour that another Commission may issue directed to the former Commissioners, in order to take the said Answer *de novo*, and that the  
Caption

*The Clerk's Associate.*

Caption thereof may thereupon be rectified or amended; and that your Petitioner may have three Weeks time to return the same, and that all Procefs for want thereof be in the mean time stayed.

*And your Petitioner shall ever pray, &c.*

*Petition to assign Infants Guardians, and to take their Answer.*

Sheweth,

**T**Hat the Plaintiffs filed their Bill against your Petitioners, to which they have appear'd and taken a Copy.

That your Petitioners all residing in the County of have craved a Commission to take their Answer, and the Plaintiffs



tiffs have given Commissioners Names for that Purpose.

But in regard your Petitioners are Infants, and cannot answer the Plaintiffs Bill, without having Guardians assign'd them for that purpose;

*Your Petitioners* therefore humbly pray your Honour, that they may be at Liberty to sue out a Commission to assign them Guardians and to take their Answer by such Guardians.

*And your Petitioners shall ever pray, &c.*

*Petition for Time to Answer.*

Sheweth,

**T**hat the Plaintiffs filed their Bill against your Petitioners,  
to

to which they have appear'd and taken a Copy.

That your Petitioners all residing in the County of  
Commissions are issued to take their Answers, and made returnable within three Weeks after *St. Michael*, but your Petitioners shall not be able to return the same within the Time limited by the strict Rules of the Court, and forasmuch as your Petitioners are not in Contempt, nor have they yet had any Order for Time.

*Your Petitioners* therefore humbly pray your Honour, that they may have Time to put in their Answers to the said Bill until the first Day of the next Term, and that all Process of Contempt for want thereof be in the mean time stayed.

*And your Petitioners shall ever pray, &c.*

*Petition for Names, or to  
issue a Dedimus ex parte.*

Sheweth,

**T**hat on or about the Day  
of last, the Plain-  
tiff filed his Bill in this honour-  
able Court against your Petition-  
er, to which he has appear'd and  
taken a Copy.

That your Petitioner's Clerk in  
Court has oftentimes apply'd to  
the Plaintiff's Clerk in Court for  
Commissioners Names for the ta-  
king of the Petitioner's Answer,  
who refused and still does refuse  
to give him Names for that pur-  
pose.

That your Petitioner, who re-  
sides in the Country, is desirous  
to put in his Answer to the said  
Bill.

*Your Petitioner* therefore  
humbly prays your Honour  
that

*The Clerk's Associate.*

that the Plaintiff's Clerk in Court may in four Days give Commissioners Names to the Petitioner's Clerk in Court, in order to take the Petitioner's Answer, or that in Default thereof your Petitioner may be at Liberty to take out a Commission to plead, answer or demur, and that the same may be directed to your Petitioner's own Commissioners.

*And your Petitioner shall ever pray, &c.*

*Petition to add a Defendant.*

Sheweth,

**T**Hat in *Easter* Term last your Petitioner filed a Bill in this Court against the Defendant, to which the Defendant  
 2 hath

hath put in his Answer ; but your Petitioner is since advised by his Counsel to make *E. F.* of—— a Defendant in this Cause.

*Your Petitioner* therefore humbly prays your Honour, that he may be at Liberty to amend his Bill, by adding the said *E. F.* as a Defendant.

*And your Petitioner shall ever pray, &c.*

*Petition to be admitted in  
Forma Pauperis.*

Sheweth,

**T**Hat your Petitioner being very Poor, as by Affidavit appears, and being serv'd with Process to appear and answer at the Plaintiff's Suit, is by Reason of such his Poverty, unable to make his Defence, unless  
H he



he be admitted to defend this  
Suit *in Forma Pauperis*.

*In Tender Consideration*  
whereof, your Petitioner  
humbly Prays your Ho-  
nour to admit him to de-  
fend this Suit *in Forma*  
*Pauperis*, and to assign  
him for his Counfel  
Mr. \_\_\_\_\_ and Mr.  
\_\_\_\_\_ for his Six  
Clerk.

*And your Petitioner shall ever  
pray, &c.*

*Petition to appoint a Day  
for appearing, Defendant  
absconding.*

Sheweth,

**T**HAT your Petitioner filed  
his Bill in *Michaelmas* Term  
last in this Honourable Court,  
against the Defendant *C. D.* to be  
relieved

relieved touching the Matters therein contained.

That the said *C. D.* absconds for fear of being served with the Process of this Honourable Court, as by Affidavit appears.

*Your Petitioner* therefore humbly prays your Honour to appoint such Day, for the Appearance of the said *C.D.* pursuant to the late Act of Parliament, as to your Honour shall seem meet.

*And your Petitioner shall ever pray, &c.*

*Petition to receive Exceptions.*

Sheweth,

**T**HAT your Petitioner having exhibited his Bill in this Honourable Court, against  
H 2 the

the said Defendant and others, the said Defendant put in her Plea and Answer; on arguing of which Plea on the — Day of ——— last, it was ordered, that the same should stand for an Answer, with Liberty to your Petitioner, to except to such Matters as in the said Order mentioned.

That your Petitioner has many material Exceptions to offer in Pursuance of the said Order, but the Drawing up and Entering of the said Order, and preparing the said Exceptions, which are long, having run out more than the Time of Course for delivering Exceptions.

*Your Petitioner* humbly prays your Honour, That the said Defendant's Clerk in Court may now receive your Petitioner's Exceptions, or to grant your Petitioner such other Relief

lief, as to your Honour  
shall seem meet.

*And your Petitioner shall ever  
pray, &c.*

*Petition to refer Exceptions.*

Sheweth,

**T**HAT your Petitioner having exhibited his Bill in this Honourable Court, against the said Defendant, she put in her Plea and Answer thereto; on arguing of which Plea, on the —Day of —last, the same was ordered to stand for an Answer, with Liberty to your Petitioner to except thereto, in such Manner as therein mention'd.

That your Petitioner obtained your Honour's Order of the —Day of —last, that the Defendant's Clerk in Court, should receive Exceptions as in due Time,

and accordingly your Petitioner immediately after deliver'd Exceptions over to her Clerk in Court; but in as much as she has hitherto declined putting in any further Answer;

*Your Petitioner* humbly prays your Honour, That it may be referred to one of the Masters of this Court, to look into your Petitioner's Bill, the Defendant's Plea and Answer, and your Petitioner's Exceptions, and certify wherein her said Plea and Answer is insufficient.

*And your Petitioner shall ever pray, &c.*

*Peti-*



*Petition to amend a Bill  
on Payment of Costs.*

Sheweth,

**T**Hat your Petitioner having exhibited his Bill into this Honourable Court, against the said Defendant *C. D.* and others, the said Defendant only put in his Answer thereto (none other of the Defendants being serv'd with Process) upon Perusal of whose Answer, your Petitioner is advised to amend his Bill.

*Your Petitioner* therefore humbly prays your Honour, That he may be at Liberty to amend his Bill, paying Twenty Shillings Costs, to the said Defendant, or to his Clerk in Court.

*And your Petitioner shall ever  
pray, &c.*

H 4

*Peti-*

*Petition for Subpœna's to  
rejoin, &c.*

Sheweth,

**T**HAT your Petitioner filed his Bill in this Court against the said Defendants, to which Bill they have appear'd, and put in their Answer, to which your Petitioner hath replied, and — is willing to speed his Cause.

*Your Petitioner* therefore humbly prays your Honour, that he may be at Liberty to take out *Subpœna's* to rejoin, returnable immediately, and that Service thereof on the Defendants Clerk in Court be deemed good Service on the said Defendants, and that the Defendants Clerk in Court do in four Days after Notice hereof, join and strike

Com-

Commissioners Names with  
your Petitioner's Clerk in  
Court, or in Default there-  
of that your Petitioner may  
have a Commission, on his  
own Behalf, directed to his  
own Commissioners; And  
that he may be at Liberty  
to examine in Term-time.

*And your Petitioner shall ever  
pray, &c.*

*Petition for Plaintiff to join  
and strike, or Commission  
to issue ex parte.*

Sheweth,

**T**HAT on the—Day of—  
last your Petitioner was serv'd  
with an Order, obtained upon the  
Plaintiff's Petition of the—Day  
of — for a *Subpœna* to rejoin,  
returnable immediately, and that  
Service thereof on your Petitioner's  
Clerk in Court should be good

H 5

Service

Service, and that the Petitioner's Clerk in Court should in four Days after Notice join and strike Commissioners Names with the Plaintiff's Clerk in Court, or that in Default thereof the Plaintiff might sue out a Commission on his own Behalf, directed to his own Commissioners.

*That* your Petitioner no sooner received the same, but he was ready to comply with the Terms therein, and applied to the Plaintiff's Clerk in Court to join and strike with him, who said he had not Names, and could not.

*That* your Petitioner has very good Reason to believe these Steps are taken by the Plaintiff meerly for Delay: And in regard your Petitioner hath several material Witnesses, as he is advised, to examine, and is very desirous the Cause should proceed;

*Your Petitioner* therefore  
humbly prays your Honour  
that

that the Plaintiff's Clerk in Court do in four Days after Notice join and strike Commissioners Names with your Petitioner's Clerk in Court, or that in Default thereof, your Petitioner may sue out a Commission for Examination of Witnesses on his own Behalf, directed to his own Commissioners.

*And your Petitioner shall ever pray, &c.*

*Petition to add Interrogatories.*

Sheweth,

**T**HAT your Petitioner obtain'd an Order for a Commission to examine Witnesses, returnable sometime last Term. And your Petitioner accordingly examined several Witnesses, and returned



turned his Commission; but before Publication passed, the Plaintiff thought proper to obtain an Order for a Commission to examine Witnesses this Vacation: And your Petitioner has joined and struck Names for that Purpose; but Notice of executing the said Commission is not yet given.

*That* your Petitioner is advised it will be necessary to add an Interrogatory or two to his former Set of Interrogatories.

*Your Petitioner* therefore humbly prays your Honour, that he may be at Liberty to add an Interrogatory or two to his former Set of Interrogatories, but so as not to examine any Witness that hath been already examined.

*And your Petitioner shall ever pray, &c.*

*Peti-*

*Petition to examine a Defendant as a Witness.*

Sheweth,

**T**HAT Issue being joined in this Cause as against *C. D.* and his Wife only, your Petitioner is advised, that the said Defendant is a material Witness for your Petitioner; and being no way concern'd in Point of Interest,

*Your Petitioner* therefore humbly prays your Honour, that he may be at Liberty to examine the said Defendant *C. D.* at the Examination of Witnesses in this Cause, as a Witness for your Petitioner.

*And your Petitioner shall ever pray, &c.*

*Peti.*

*Petition to enlarge Publication.*

Sheweth,

**T**HAT on the — instant a Rule was entered by the Defendant's Clerk in Court for passing Publication in this Cause, which is not yet expired.

That your Petitioner has not been yet able to examine any Witnesses, and he hath several material Witnesses, as he is advised, to examine in this Cause, without whose Testimony he cannot safely proceed to a Hearing.

*Your Petitioner* therefore humbly prays your Honour, that Publication in this Cause may be enlarged till the first Day of the next Term.

*And your Petitioner shall ever pray, &c.*

*Another*

*Another Petition to enlarge  
Publication.*

Sheweth,

**T**HAT this Cause being at Issue, several Witnesses have been examined on the Part of the Plaintiffs, and this Day being the — Day of — a Rule is enter'd by the Plaintiff's Clerk in Court, for passing Publication in this Cause.

*That* by Reason of your Petitioner's and his Solicitor's Illness, your Petitioner has not been able to examine his Witnesses this Vacation, although he hath several very material Witnesses, as he is advised, to examine, as by Affidavit appears; and in regard your Petitioner doth not hereby intend to postpone the setting down this Cause for Hearing;

*In the Affidavit  
name the  
Witnesses,  
and their  
Places of  
Abode.*

*Your*

*The Clerk's Associate.*

*Your Petitioner* therefore  
humbly prays your Honour,  
that Publication in this  
Cause may be enlarged for  
six Weeks.

*And your Petitioner shall ever  
pray, &c.*

*Petition to enlarge Publica-  
tion, &c.*

Sheweth,

**T**HAT the Plaintiffs have gi-  
ven Rules to produce Wit-  
nesses, and to pass Publication as  
of this last Term, but examined  
no Witnesses.

*That* your Petitioner is advised  
he hath several very material Wit-  
nesses to examine in this Cause,  
without whose Testimony he can-  
not safely proceed to a Hearing;  
and in Regard your Petitioner lives  
in ———

*Your*



*Your Petitioner* therefore humbly prays your Honour, that Publication in this Cause may be enlarged until the first Day of the next Term; and that your Petitioner may have a Commission for Examination of Witnesses; and that the Plaintiff's Clerk in Court may join and strike Commissioners Names with your Petitioner's Clerk in Court in four Days after Notice to the Plaintiff's Clerk in Court, or that your Petitioner may be at Liberty to take out a Commission on his own Behalf, this Vacation, directed to his own Commissioners.

*And your Petitioner shall ever pray, &c.*

*Peti-*

*Petition to withdraw Replication and amend Bill.*

Sheweth,

**T**HAT sometime since your Petitioner filed his Bill in this Honourable Court against the said Defendants, to which they put in their Answers, and your Petitioner replied, and the Defendants rejoined, but no Witnesses were examined.

*That* your Petitioner, as he apprehends and is advised, ought to amend his said Bill, by adding *J. H. Infant*, a Defendant, with proper Charges; and for that this is in your Petitioner's own Delay;

*Your Petitioner* therefore humbly prays your Honour, that he may be at Liberty to withdraw his Replication and amend his Bill, as he shall be advised, upon

on Payment of Twenty Shillings Costs to the Defendants, who have answered.

*And your Petitioner shall ever pray, &c.*

*Petition to set down a Plea.*

Sheweth,

**T**HAT sometime since the said Plaintiff filed his Bill in this Honourable Court against your Petitioner and others, since which he hath thought fit to amend the same.

*That in* ——— *your Petitioner put in his Plea and Answer to the said amended Bill, which Plea the said Plaintiff hath not yet thought fit to set down to be argued.*

*Your Petitioner therefore humbly prays your Lordship, that he may be at Liberty*

*The Clerk's Associate.*

berty to set down his Plea to be argued; and that your Lordship will be pleased to appoint a short Day for the arguing thereof.

*And your Petitioner shall ever pray, &c.*

*Petition to set down a Cause  
for Hearing.*

Sheweth,

**T**HAT Publication is by Order to pass in this Cause the first Day of the next Term, and your Petitioner by the same Order is to procure the said Cause to be set down to be heard sometime within the same Term.

*Your Petitioner* therefore humbly prays your Honour, that this Cause may be put in the Paper of Causes  
for

for the last Day of Causes  
within the next Term.

*And your Petitioner shall ever  
pray, &c.*

*Petition to sign and inrol a  
Decree nunc pro tunc.*

Sheweth,

**T**HAT the Time for signing  
and inrolling the Decree in  
this Cause is elapsed by the Rules  
of this Court.

*Your Petitioners therefore  
humblly pray your Honour,  
that the said Decree may  
be signed and inrolled  
nunc pro tunc.*

*And your Petitioner shall ever  
pray, &c.*

*Form*



*Form of a Notice of Motion.*

In Chancery.

Between *A. B.* Plaintiff.

*C. D.* Defendant.

**T**HE said Defendant intends to move the Court on, &c. or as soon after as Counsel can be heard, That the Plaintiff may answer the Defendant's Cross Bill, before the said Defendant hath put in his Answer to the Plaintiff's original Bill. This being the—— Day of—— 1737.

*W. L.* Solicitor  
for Defendant.

*Noticē*

*Notice to dismiss.*

In Chancery.

Between *A. B.* Plaintiff.

*C. D.* Defendant.

**T**HE said Defendant intends to move the Court on, &c. or so soon after as Counsel can be heard, that the Plaintiff's Bill may stand dismissed out of this Court, for want of Prosecution, with Costs to be taxed by one of the Masters of this Court. This being the —Day of———1737.

*E. F.* Clerk in Court  
for the Defendant.

Am=

---

## Affidavits.

### *Affidavit of serving a Subpoena.*

Between *A. B.* Plaintiff.

*C. D.* Defendant.

**A.** *B.* of, &c. — maketh Oath, that he this Deponent did on the — Day of — serve the Defendant with a *Subpoena* issued out of and under the Seal of this Honourable Court, by delivering the Body of the said *Subpoena*, so under Seal as aforesaid, to — a Servant of the said Defendant, at his the said Defendant's dwelling House in — in the County of — : Which said *Subpoena* was returnable the — Day of —, and for the Defendant to appear and answer a Bill at the

Plaintiff's Suit; all which this Deponent did acquaint the said—— with.

*A. B.*

Sworn, &c.

*Affidavit of serving a Subpœna to hear Judgment.*

**A.** *B.* of —— in the County of —— maketh Oath, *That* he this Deponent did on the —— Day of this Instant —— serve the said *Complainant* with a *Subpœna*, issued out of and under the Seal of this Honourable Court; whereby the said *Complainant* was commanded to appear in the said Court the —— Day of ——, to hear Judgment the —— Day of the same Month, (*at the Request of the said N. B. Defendant*) by delivering the Body of the said *Subpœna* so under Seal to ——, a Servant of the said *Complainant*, at the said *Complainant's* dwelling House at —— in the County of ——, and then  
I telling

telling the said——the Contents thereof.

A. B.

Sworn, &c.

*Affidavit of serving a Writ  
of Execution of a Decree  
on a Clerk in Court, the  
Party absconding.*

**A.** B. of, &c.—, maketh Oath,  
That he this Deponent did  
on the——Day of this Instant ——  
deliver into the Hands of——  
the Defendant's Clerk in Court,  
a true Copy of a Writ of Execu-  
tion of a Decree, bearing Teste at  
*Westminster* the——Day of ——  
and at the same Time shewed him  
the said Writ of Execution, under  
Seal of this Honourable Court,  
whereby the Defendant was di-  
rected to, &c.——

*Aff.*



*Affidavit of Poverty.*

**A.** *B. the Complainant [or C. D. the Defendant]* maketh Oath, that he is not worth in all the World the Sum of Five Pounds, his wearing Apparel and the Matters in this Suit only excepted.

*A. B.*

Sworn, &c.

*Affidavit of serving a Petition.*

**A.** *B. of, &c.* — maketh Oath, *That* he this Deponent did on the — Day of — instant, leave at the Seat of Mr. — of the Six Clerk's Office, with his Agent there, a true Copy of a Petition in this Cause in Writing, preferred to the Right Honourable the Master of the Rolls, on the humble Petition of the said Defendant, with his Honour's Order thereon, bearing Date the —

I 2

instant;

instant; whereby it was ordered, that the Parties concerned should attend his Honour on the Matter of the said Petition, the then next Day of Petitions, of which Notice was forthwith to be given. Which said Mr. ——— acts as Clerk in Court for the Plaintiffs in this Cause, as this Deponent hath been credibly informed, and verily believes. And this Deponent further saith, that at the Time he so served the said Copy, he shewed its Original to the said Agent.

*A. B.*

Sworn, &c.—

*Affidavit of serving an Order.*

**A.** *B.* of, &c. ——— maketh Oath, That he this Deponent did on the ——— Day of ——— last, leave at the Seat of Mr. ——— of the Six Clerk's Office, with Mr. ——— his Agent there, a true Copy

Copy of an Order in Writing in this Cause, duly pass'd and enter'd, bearing Date the——Day of the said——. Whereby it was ordered, That, &c.——  
And this Deponent further saith, that he did on the said——also leave at Mr.——Seat, with his Clerk or Agent there, another Copy of the said Order in Writing, purporting as aforesaid. Which said Mr.——acts as Clerk in Court for the, &c.——and the said Mr.——for the——, as this Deponent is credibly inform'd and verily believes. And this Deponent at the same Time shew'd each of them so serv'd the said original Order.

*Affidavit of a Sworn Clerk,  
in order to enlarge Publication,  
Commission return'd.*

**A.** *B.* one of the Sworn Clerks of the Six Clerks Office, the said——'s Clerk in Court, maketh Oath, That the Depositions taken in this Cause, by Virtue of a Commission issued for that Purpose, out of and under Seal of this Honourable Court, are returned into his this Deponent's Office, and the same remain unopened or published; and that he this Deponent hath not seen, or read, or is acquainted with the Purport of the Depositions so taken, nor will this Deponent, until Publication shall pass by the further Order of this Honourable Court, in Case such Order can be obtained.

*Aff-*

*Affidavit of a Solicitor for  
the same Purpose.*

**A.** *B. of, &c.* ——— maketh  
Oath, That he hath not  
seen, heard, read, or been in-  
formed of the Contents of any  
of the Depositions taken in this  
Cause, nor will he this Deponent  
see, hear, read, or be informed  
of the Contents of the said Depo-  
sitions, until the further Order of  
this Honourable Court, in Case  
such Order can be obtained for  
the said Defendant to examine  
any Witnesses.

*Affidavit of a Defendant  
and Solicitor for the same  
Purpose.*

**T**HE Defendant ——— of  
——— in the County of  
——— And ——— of ——— in the  
I 4 County



County of—— severally make Oath and say; and first the said Defendant——maketh Oath, That the Depositions taken in this Cause, by Virtue of a Commission issued for that Purpose out of and under Seal of this Honourable Court, have not been seen, read, or heard read, by this Deponent, nor hath this Deponent been informed, or made acquainted with the Purport of the said Depositions so taken, nor will this Deponent, until Publication shall pass by the further Order of this Honourable Court, in Case such Order can be obtained. And the said——further saith, that he hath several material Witnesses to examine, as he is informed and believes (to wit———) And the said——for himself maketh Oath, That the said Depositions were returned and sent unto—— the said Defendant's Clerk in Court, and that the same now remain

remain in the Six Clerks Office, unopened and unpublished, as this Deponent believes: And further saith, that he hath not seen, read, or heard read, the said Depositions, nor will he, until Publication shall pass by the further Order of this Honourable Court, in Case such Order can be obtained.

*Affidavit to annex to a Certificate of a Person's being of Age.*

**A.** *B.* of, &c. ——— maketh Oath, That *C. D.* in the Certificate hereunto annexed named, was baptized *the Day and* Or you may here in insert the Day and Year. *Year as in the said Certificate is mentioned,* as appears by the Register's Book kept for the Town of ——— in the Parish of ——— which this Deponent himself examined. And this Deponent further saith, that the Names ——— and ——— thereunto subscribed,

*The Clerk's Associate.*

as Minister and Church-wardens of ———— aforesaid, are of their own proper Hand-writing, and were by them subscribed in this Deponent's Presence.

*A. B.*

Sworn, &c.

*Affidavit of a Receiver.*

**A.** B. of the Parish of ———— in the County of ———— Esq; Receiver of the Rents and Profits of the several Estates in Question, which are particularly set forth in three several Books (intituled ———— Accounts, ———— Accounts, and an Account of the neat Cash received out of the ———— Estate) and of the Disbursements thereout, maketh Oath, that the said several Books do contain a full and true Account of all this Deponent's Receipts, Payments, Allowances and Disbursements, according to the best of this Deponent's Knowledge and Belief. And this Deponent

ponent further saith, that neither he, nor any other Person or Persons for his Use, to his Knowledge or Belief, hath received any other Sum or Sums of Money whatsoever, other than what are mention'd in the said several Books of Account. And saith, that the Money therein discharged, or mentioned to have been paid or allowed, hath been really and *bona fide* paid or allowed by this Deponent, in such Manner as in the said several Books of Account are mentioned; except the Sum of ———— for this Deponent's Salary, which this Deponent craves to be allowed. And this Deponent further saith, that he doth not know or believe that there is any Error, Omission, or wrong Charge whatsoever in the said several Accounts.

*Per me*

*Form of a Replication.*

The Replication of *A. B.*  
Complainant, to the Answer of *C. D.* Defendant.

**T***HIS Replyant*, saving unto himself all, and all Manner of Advantages of Exception to the manifold Insufficiencies of the said Answer, for Replication thereunto saith, That he will aver and prove his said Bill to be true, certain and sufficient in the Law to be answered unto; and that the said Answer of the Defendant is uncertain, untrue, and insufficient to be replied unto by this Replyant; without that, that any other Matter or Thing whatsoever in the said Answer contained, material or effectual in the Law to be replied unto, and herein not replied unto, confessed and avoided, traversed or denied, is true; all which Matters and Things.



Things this Replyant is, and will be ready to aver and prove, as this Honourable Court shall award: And humbly prays, as in and by his said Bill he hath already prayed.

*Form of a Recognizance in Chancery.*

*A. B.* of — in the County of —, *A. H.* of — in the County of —, *R. B.* of the same Place — personally appearing before our Lord King *George* the Second, in his High Court of Chancery, the said *A. B.* hath acknowledged that he owes to the Right Honourable Sir *J. J.* Kt. Master of the Rolls, and to *R. H.* Esq; one of the Masters of the said High Court of Chancery, *Two Thousand Pounds* of good and lawful Money of *Great Britain*, to be paid to the said Sir *J. J.* and *R. H.* or either of them, their,

their, or either of their Executors, Administrators or Assigns. And each of them the said *A. H.* and *R. B.* hath severally and respectively acknowledged, that he doth severally and respectively owe to the said Sir *J. J.* and *R. H.* *One Thousand Pounds* of like lawful Money, to be paid to the said Sir *J. J.* and *R. H.* or either of them, their, or either of their Executors, Administrators or Assigns. And each of them the aforesaid *A. B.* *A. H.* and *R. B.* Wills and Grants for himself severally and respectively, and for his and their several and respective Heirs, Executors and Administrators, that the aforesaid several and respective Sums of Money, by them respectively acknowledged to be due as aforesaid, shall and may be levied and recovered of them severally and respectively; and of his or their several and respective Heirs, Executors and Administrators; and  
of

of all and each of their severall and respective Manors, Messuages, Lands, Tenements and Hereditaments, Goods and Chattels to them, or any of them, severally and respectively belonging, where-soever they shall be found. *Witness* ourselves at *Westminster* the — Day of — in the — Year of our Lord —.

*Whereas* by an Order of the High Court of Chancery made the — Day of — upon the hearing of a Cause depending in the said Court between the above named *A. B.* Plaintiff, and *C. D.* and *E. F.* Defendants; it was by Consent of the Defendant *C. D.* signified by his Clerk in Court, having signed the Register's Book, (among other Things) ordered, That the said Defendant *C. D.* should

*The Clerk's Associate.*

should pay unto the said Plaintiff in three Weeks the Principal, Interest, and Costs reported due to him upon the said Plaintiff's giving Security to be approved of by *J. B. Esq;* the Master, to whom the said Cause stands referr'd, to be answerable for the same, as the Court shall direct; which said Principal, Interest, and Costs amounts to the Sum of *One Thousand* Pounds, as appears by the said Master's Report, dated the — Day of —. *And whereas* the said Master hath approved of the above bounden *A. H.* and *R. B.* to be Security for the said *A. B.* according to the said Order. *Now the Condition* of this Recognizance is such, that if the above bounden *A. B.* his Heirs,

Heirs, Executors or Administrators, shall and do well and truly stand to observe, perform, fulfill, abide and keep such Order as shall be made by the said Court, touching or concerning the said Sum of *One Thousand Pounds*, and answer the same as the Court shall direct; then this Recognizance to be void, or else to remain in full Force.

*Form of a Decree.*

**W**Hereas heretofore, that is to say, in or about — Term, which was in the Year of our Lord (according to the Computation of the Church of *England*) one Thousand seven Hundred and thirty-seven, *A. B.* Complainant did exhibit his Bill of Complaint into this High and Honourable Court of *Chancery*, against *C. D.* Defendant; *There-*  
by



by setting forth, &c. [*Here recite the Bill briefly.*] And to be relieved in all and singular the Premises, the Complainant humbly prayed the Aid and Assistance of this Honourable Court, and that Process of *Subpœna* might be thereout awarded against the said Defendant to compel him to appear to, and answer the said Bill: Which being granted, and the said Defendant therewith duly served, he appear'd and answered accordingly. And the said Defendant by his Answer said, &c. [*Here recite the Substance of the Answer.*]

To which Answer of the Defendant the Complainant replied; and the said Cause being at Issue diverse Witnesses were examined therein, and their Depositions duly and regularly taken and published, according to the usual Course of this Honourable Court, as in and by the said Bill, Answer, Replication, Depositions of Witnesses, and

and other Proceedings in the said Cause, all of them remaining as of Record in this Honourable Court, whereunto Relation being had, may more fully and at large appear. *And* the said Cause thus standing in Court ready for Hearing, a Day was by this Court appointed for the Hearing thereof; *on which Day*, being — the — Day of — in the — Year of the Reign of our Sovereign Lord King *George* the Second, the said Cause coming on accordingly to be heard and debated before the Right Honourable *Philip* Lord *Hardwick*, Baron of *Hardwick* in the County of *Gloucester*, Lord High Chancellor of *Great Britain*, in the Presence of Counsel learned on both Sides; the Substance of the Complainant's, Bill, and the Defendant's Answer appeared to be in Effect as is herein before recited and set forth. Whereupon, and upon Debate of the Matter, and  
hear-

hearing what could be alledged on all Sides, this Court did think fit to *Order* and *Decree*. And accordingly it is this present Day, that is to say, on — the — Day of — in the — Year of the Reign of our Sovereign Lord *George* the Second, by the Grace of God of *Great Britain, France* and *Ireland* King, Defender of the Faith, &c. and in the Year of our Lord — By the Right, &c. Lord High Chancellor of *Great Britain*, and by the High and Honourable Court of Chancery, and the Power and Authority thereof *Ordered, Adjudged* and *Decreed*, That, &c. [*Here insert the Decretal Part of the Order on Hearing.*]

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*Vide* the printed Paper affix'd on  
Westminster-Hall Gate the begin-  
ning of Michaelmas Term 1737,  
being Directions to Solicitors and  
At-

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